

WTS Klient Newsletter

People you can rely on.

Dear Readers,

Almost five years have passed since our managing partner, Zoltán Lambert, said on the occasion of WTS Klient's 20th anniversary that without renewal and constant technological improvement we cannot be at the pinnacle of our industry, and cannot retain the hard-earned trust of our clients, i.e. you. We have been following this path ever since, and the latest step on this journey is the renewal of the WTS Klient brand. Two weeks ago you got a taste of our crisp and revamped image in the [WTS Klient Newsflash](#), while you also came across our new slogan: "People you can rely on." And this newsletter has a whole new look with the new design and brand elements.

Apart from our newsletters you can read our expert opinions in Hungarian also in the columns of Index, HVG, Napi.hu and Portfolio, where among others, we summarised for journalists the chances of the Russian-Hungarian double tax treaty being terminated and its consequences. If you would rather listen to us while driving, then you will find us in the [Portfolio Checklist podcast](#) (also in Hungarian).

As usual, this newsletter offers you a wide range of topics covering a variety of our business lines. The first article sees our new accounting expert introduce the topic of registered capital at branches. We also cover real estate taxation and capital adequacy, the latest transfer-pricing rules, and what to check when preparing Hungarian financial statements based on foreign accounting. On page 3, we have once again compiled a selection of WTS Global's newsletters, and from page 11 you can reach WTS Global's brand new publication, the first M&A Newsletter.

We hope you continue to read us, follow us on our social media channels, and we promise to continue providing you with clear and professional content. Do not hesitate to contact us with any questions you may have.

Tamás Gyányi
Senior Partner



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PORTFOLIO-MAGE AUTOMOTIVE INDUSTRY 2023

On 17 May 2023, Portfolio and MAGE, the Hungarian Automotive Association, will organise a joint conference, at which players from the automotive industry, executives and experts, consultants, representatives of energy suppliers, logistics companies and the financing side will discuss the sector's burning questions and possible practical solutions. The conference will be held in Hungarian language at the premises of Hungexpo Budapest, as an official program of the Automotive Hungary exhibition. [Click here for further details!](#)

Registered capital of branch offices

What needs to be recognised as the registered capital of branch offices?

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The foreign company must continuously provide the assets required to operate the branch office and settle debts.

There are always a lot of questions surrounding the accounting and bookkeeping of the Hungarian branches of foreign-registered companies. One of the areas exhibiting the most uncertainty is the registered capital of branch offices, more precisely, **whether registered capital needs to be recognised in the books of the branch office, and if yes, how?** Why can this cause problems? In an earlier article of ours on the Hungarian branches of foreign-registered companies, we touched on the issues of initial capital and the registered capital of branch offices, but below we delve into more detail.

Legal background

Based on Sections 2 (2) and 3 (1) 2 of Act C of 2000 on Accounting (Hungarian Act on Accounting), the Hungarian branch of a foreign-registered company, as a business entity, is subject to the Act on Accounting. At the same time, it is bound by the rules of Act CXXXII of 1997 on the Hungarian Branches and Commercial Representative Offices of Foreign-Registered Companies (Branch Office Act).

Initial registered capital based on the Hungarian Branch Office Act

In legal terms, i.e. by definition, the registered capital of branch offices differs from the registered capital of other business entities, i.e. from share capital. While a limited liability company may be founded with share capital of HUF 3 million, and a private

company limited by shares with HUF 5 million, the Branch Office Act defines **no minimum amount for the initial capital** in relation to founding a branch office. However, it does prescribe that a foreign company must continuously provide the assets required to operate the branch office and settle debts.

Registered capital of branch offices based on the Hungarian Accounting Act

Section 35 (6) of the Act on Accounting stipulates that in respect of Hungarian branch offices of foreign-registered companies, the capital provided and made permanently available by the foreign-registered company (including the endowment capital prescribed by law) for the operation of the Hungarian branch office, and for the settlement of its debts, must be recognised as registered capital.

So this is the registered capital of branch offices, which is not designed to cover the daily operating expenses of business activities, but to **ensure operational conditions on a prolonged basis** and be a source of assets required for operation.

As a result, **it must be set forth in an agreement** what the foreign-registered company allocates to its Hungarian branch office, and at what value. For non-cash contributions, the cost of the asset is the value defined in the agreement or contract in accordance with Section 50 (7) of the Act on Accounting.

Registered capital at the Court of Registration

The allocated amount mentioned above, as set out in an agreement, **must be registered at the Court of Registration once a year**. Although the foreign-registered company may transfer permanent resources to the branch even several times a year to ensure continuous operations, without the obligation to register this at the Court of Registration, the cumulated amount of capital provided to the branch office must still be registered at the Court of Registration once a year.

Accounting advisory

If your foreign-registered company is considering opening a branch office in Hungary, or planning to make changes to registered capital (capital increase or decrease) at an existing branch office, we recommend you contact our expert advisers to get answers to any questions arising in relation to their accounting, or any other accounting issues related to the registered capital of branch offices. The accounting specialists at WTS Klient Hungary are here to help.



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Areas of Expertise

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- > accounting advisory

The latest WTS Global Newsletters have been released

Insights on mobility, customs, financial services and VAT from all over the world

The work-from-anywhere culture among younger professionals has become the standard expectation and demands flexibility from companies. Legal framework conditions must of course be met, so there are numerous implications for global mobility and international assignments. The first WTS Global Mobility Newsletter in 2023 provides you with an overview of recent developments in this field. Download it here: [WTS Global Mobility Newsletter #1/2023](#)

In the first edition of the WTS Global Customs Newsletter this year WTS experts from China, the Netherlands, United Kingdom, Vietnam and Germany provided an update on recent customs and trade issues. The newsletter is available in PDF format here: [WTS Global Customs Newsletter #1/2023](#)

The latest WTS Global Financial Services Newsletter presents taxation related news from 13 countries with focus on the international financial services industry. You can download the newsletter in PDF format here: [WTS Global Financial Services Newsletter #1/2023](#)

The #1/2023 edition of the WTS Global VAT Newsletter wants to share with you insights on the latest developments in terms of VAT and GST in six countries: Belgium, Italy, the Netherlands, Poland, the Kingdom of Saudi Arabia and Nigeria. The newsletter can be downloaded in PDF format here: [WTS Global VAT Newsletter #1/2023](#)

Taxation of real estate in 2023

Last loophole in duty payment closed

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The 2023 tax law amendments introduced significant changes to the taxation of real estate in Hungary. In terms of value added tax, you can even benefit from a relaxation of the rules, owing, for instance, to the extension of the 5% VAT rate related to the sale of new homes, while for duties, the last loophole has essentially been closed, and you may even have to pay double.

5% VAT on homes to stay

The good news regarding the taxation of real estate is that by elevating the decree rule on the state of emergency into law, the **preferential 5% VAT on the sale of new homes has been extended until 31 December 2024**. This reduced tax rate may also be applied after 31 December 2024 – until 31 December 2028 – for projects already launched too, if the building permit is finalised by no later than 31 December 2024, or if the construction has been notified to the authorities by that date in accordance with the simple notification rules.

The reduced 5% rate can still only be applied for the sale of new properties, it does not apply for services. A **property shall be regarded as new if it has not yet been used as intended**, or if it has, then two years have not yet passed between the official completion certificate becoming final and its sale. However, as of 1 January 2023, **the definition of new property has been modified slightly**: from this year the sale of developed land shall be taxable if it has already been used as intended for the first time, but its intended use, or the number of units for this purpose, has changed, and fewer than two years have elapsed between the issuance of the completion certificate and the time of sale.

What to look out for regarding the taxation of real estate?

The preferential VAT rate of 5% for new residential properties is only applicable if the **total usable floor space** does not exceed 150 square metres for a multi-occupational residential property, or 300 square metres for detached family homes.

Areas not required for the intended use as a dwelling shall not be construed as residential property, even if built adjacent to the residential building, such as a garage, workshop, shop or farm building.

It is important, though, under what conditions an open-air car park or a storage facility can be included in the square metre limit set for applying the reduced rate. In some cases, if the area of the property for sale includes an open-air car park for example, because it is connected to the building, the application of the 5% reduced rate may be at risk.

Lower tax risks for construction

In addition to the extension of the 5% VAT on homes, the amendment of building rules brings good news in terms of the taxation of real estate in Hungary. This is because many legal disputes previously arose between taxpayers and the tax authority with regard to contractor services for the building and conversion of real estate. If a contractor incorrectly issued a reverse charge invoice, the Hungarian tax authority objected to the VAT deduction at the client and could potentially levy a penalty of up to 50% of the deducted VAT. **In accordance with the changes to building rules, the rules for applying reverse charging have now also been clarified.**

The amendment means that all construction/installation and other assembly work for the construction, conversion, and change of use, etc. of real estate that requires a permit or having to notify a public authority is subject to the reverse charge mechanism.

In practice, this means that reverse charging may be applied for these services even if they are not subject to a building permit or to simple notification, though permits from other authorities are required. This includes work subject to a heritage protection permit or notification, a change of use permit, or a town planning notification procedure. Nevertheless, you must pay attention when applying the transitional rules since, as a result of the rule change, an invoice on a given service which may have been subject to direct taxation in 2022 may now have to be issued with reverse charging under the new rules.

Last loophole of duty payment closed

The Hungarian Act on Duties currently also contains a rule that exempts **transfers of real estate between related companies** from payment of the onerous property transfer duty. The condition for the exemption is that the core activity of the buyer when the duty payment liability arises must be the rental or operation of own or rented real estate or the sale of own real estate. Based on the previous rules regarding the taxation of real estate in Hungary, however, this condition only had to be met at a given time, which, according to the legislator, provided grounds for abuse. From this year onwards, the condition on the scope of activity remains, but a **new 50% sales revenue limit must also be considered, which the person acquiring the real estate must make a statement on to the tax authorities.** In other words, the duty exemption only applies if the sales revenue of the acquirer from the preferential activities relating to the real estate represents at least 50% of the total sales revenue (in the previous year).

We might rightly ask what sanctions we will face if the sales revenue condition is not met for whatever reason. If this declaration or undertaking are not complied with, the acquiring party must report this to the state tax authority, which will compel the acquiring party to pay the unpaid duty plus an additional 50%. **If they fail to comply with this obligation and the state tax authority finds in the course of a tax inspection that the declaration or undertaking were not complied with, the acquiring party will be charged twice the amount of the unpaid duty.**

CSOK: good news on the duty

Another positive change regarding the taxation of real estate in Hungary is the fact that **the family housing support (CSOK) can now be claimed not only for the purchase of a home, but also for home extensions.** While no duty is payable on the extension of your own home, joint property is created upon extending property owned by another party (e.g. attic conversion), and until now the person carrying out the investment was liable for duty. As a result of the favourable amendment, exemption is now granted for those claiming the CSOK benefit when extending homes owned by third parties too.

Value added tax consulting

If you need advice on the 5% VAT rate on the purchase or sale of new properties, building rules or reverse charging rules, or have other questions related to the taxation of real estate in Hungary, our VAT experts are here to help you.



Our expert

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Areas of Expertise

- > tax planning and review of complex tax issues
- > due diligence related to acquisitions
- > review of intra-group transactions (TP, VAT/supply chain)
- > tax advisory related to international postings

Ensuring capital adequacy

How to solve the capital situation of a limited liability company?

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All business organisations have to ensure their capital adequacy in Hungary in accordance with the Hungarian Civil Code. Yet what does capital adequacy mean? When is there a problem with capital adequacy? And what should be done about it? In this article, I discuss these issues in the context of limited liability companies.

The basic purpose of companies is to operate profitably, to make a profit. However, changes in the economic environment or sudden, unexpected events affecting the company can result in losses for a given financial year.

When is there a problem with capital adequacy?

If the gains of previous years cover the losses of the reporting year, the company's capital adequacy is not at risk. The scenario might be different, though, if the company previously paid out the profits of earlier years to the owners against the retained earnings, as a dividend. In such cases, even a smaller loss can cause headaches in terms of capital adequacy. The same issue may arise if a single loss exceeds the accumulated profit of previous years. **With continuous losses, however, it is obvious that the company will sooner or later be unable to meet the statutory requirements without continuously ensuring its capital adequacy.**

An issue with capital adequacy can arise if

- › the company's equity has **fallen to half of its share capital** due to a loss; or

- › the company's equity **does not reach the registered capital prescribed** for the given type of company in **two complete and consecutive financial years**.

What should be done in these cases?

If the company's equity has fallen to half of its share capital following a loss, the managing director must immediately **convene the members' meeting** or initiate the passing of a resolution without a meeting to take the necessary action. It is important for the owner to adopt a decision that ensures the company's equity at least reaches the amount of its share capital. The relevant resolutions of the members' meeting must be implemented within three months.

A capital situation can be resolved in various ways in Hungary, and below we will examine these one by one.

Additional capital contribution

The owner may only decide to make an additional capital contribution **if the articles of association of the entity specifically provide for this** as an option, and also include the conditions for this. In the absence of such provisions, making an additional capital contribution is not possible. If the owner would still like to opt for this, they first have to amend the articles of association.

The members' meeting decides on the amount of the additional capital contribution and how to pay it,

in line with the articles of association. This does not require any registration at the Court of Registration.

If the causes for the additional capital contribution no longer apply, the amount of the contribution **must be paid back to the owner**. The law does not specify the repayment rules in more detail, so the particular provisions for this should be given in the articles of association.

Capital increase

Since the company's capital must at least be equal to its share capital according to the Hungarian Civil Code, it is important that the capital increase is made with a premium, i.e. **the owner must provide the company with the assets in excess of the amount of the registered capital increase**. As usual, this capital increase can be a cash or a non-cash contribution.

The capital increase must be registered at the Court of Registration.

Registered capital decrease

A company may decrease its registered capital to solve its capital adequacy problem **if its registered capital exceeds the minimum requirements specified by law, and its equity also remains above this amount**, despite the losses. The company may reduce its registered capital by transferring part of it to its retained earnings or capital reserve, with the proviso that, if its retained earnings are negative, the transfer must first be carried out to compensate for the negative retained earnings.

Any decrease in registered capital must be registered at the Court of Registration.

Change of company form

To restore capital adequacy, the company's owner may decide to change the form of the company too. Naturally, the company form chosen should be such that the company is able to meet its capital requirements. Please note that changing the form of company qualifies as a transformation, and thus **the general rules of transformations must be adhered to**. Of course, finalising the process is also subject to registration at the Court of Registration. Due to the rules pertaining to transformations in Hungary, this can be considered the most time-consuming way of resolving capital issues.

What else can be done?

If these or other measures suitable for restoring the capital situation are not applicable, the owner must decide to terminate the company without succession.

Financial & accounting advisory

The rules on capital adequacy explained in this article pertain to limited liability companies in Hungary. For companies limited by shares, the rules are different. Feel free to contact our experts if you need more detailed information. Also do not hesitate to contact us if we may be of assistance with any of the capital resolution methods included in our article, be it a transformation or a voluntary liquidation.



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Areas of Expertise

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- > consolidation
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What to look out for with transfer pricing reporting?

Detailed information published by Hungarian Ministry of Finance

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Transactions subject to documentation can only be reported after a full transfer pricing analysis, based on the data contained in the transfer pricing documentation.

In previous articles we discussed the new data reporting obligation for corporate tax returns. With a view to facilitating transfer pricing reporting properly, the Hungarian Ministry of Finance has published a 25-page document (in Hungarian language) which will help taxpayers comply with the law – in addition to the instructions for completing the ATP-01 and ATP-KV forms of the corporate tax return already published by the Hungarian Tax and Customs Administration. In this context, below **we have compiled 5+1 points** to bear in mind when fulfilling your obligations on controlled transactions as we move through the busy spring.

1. Series of tax obligations

Taxpayers have multiple tax obligations to fulfil in relation to controlled transactions. These include, for example, the obligation to report related company status or the termination of such, the obligation to report cash payments or to prepare transfer pricing records, or the tax base adjustment obligation owing to transfer pricing. This list has now been extended with a new obligation: transfer pricing reporting.

In relation to a given controlled transaction, compliance with these tax obligations must be examined separately, i.e. to establish which of them must be complied with, and whether any of them need fulfilled. For example, whether the related company is registered, whether the transaction was carried out on market terms (it can happen that the taxpayer is not obliged to file documentation, but is obliged to adjust the tax base), or whether and to what extent data must be reported.

2. Transactions to be reported as part of transfer pricing reporting

A transaction subject to documentation shall always be subject to full transfer pricing reporting, but some transactions not subject to the documentation requirement may also still have to be reported, albeit with a reduced level of data. Examples of such partially exempt transactions include transactions carried out under a contract with a private individual who is not self-employed, the free transfer of cash, or the re-charging of costs. For the latter, a transitional rule temporarily grants full exemption for 2022, provided that the transaction is also exempt from the documentation obligation.

However, a transaction that is the subject of an APA (advance pricing agreement) decision must be reported in full, even though such a transaction is exempt from the transfer pricing documentation obligation.

However, there is no transfer pricing documentation or transfer pricing reporting obligation for transactions below HUF 100 million per year or for stock exchange transactions.

3. Aggregating transactions (or not)

The relevant legislation in Hungary allows for (or in some cases essentially required) aggregation in fulfilling documentation obligations for controlled transactions. Aggregation is contingent upon not jeopardising comparability, the subject-matter of the contracts being identical, and all the material

terms of their performance are fixed in advance and the same, or any differences between the terms are not significant or are closely connected.

Having said that, a new paragraph was added during the latest amendment to the transfer pricing regulation that **purchases cannot be aggregated with the sale of goods manufactured from the materials purchased, nor can a transaction involving expenses be combined with a transaction primarily involving revenue**. The Hungarian Ministry of Finance also reflects on this in its information: this addition was necessary because, in their experience, the sale of manufactured products and the purchase of raw materials are sometimes combined for example, despite this practice infringing upon comparability.

It is important that the transfer pricing reporting should show cash pool deposits and the borrowing part separately. This is also confirmed by the Hungarian Ministry of Finance as regards aggregation in the context of cash-pooling.

4. Name of transaction

It is definitely recommended to coordinate the data reporting by related companies in cases where the parties concerned are obliged to report data on the given transaction in their corporate tax return. However, **it is not recommended to copy the data reporting sheet as is**. For example, the name of the transaction can often differ for the parties on both sides of the transaction, because the name of the transaction also essentially indicates the role of the reporting taxpayer in the transaction (for example, one party performs the service while the other party uses it).

5. Designating activity code

If the reportable transaction is for manufacturing, distribution or services for example, the **most typical TEÁOR code must also be included** in the return. This activity code does not necessarily coincide with the main activity or one of the registered activities of the reporting entity, or even of the enterprise on the other side of the transaction. So it is important to indicate the activity code that defines the related transaction in the reporting. If more than one code is possible, then it is recommended to select the most typical one.

+1 The indispensable full transfer pricing analysis

Selecting the pricing method, designating the profitability indicator and determining the arm's length range are undoubtedly the most essential parts of full transfer pricing reporting. It follows that transactions subject to documentation can only be reported after a full transfer pricing analysis, based on the data contained in the transfer pricing documentation.

Transfer pricing consulting

The information from the Hungarian Ministry of Finance primarily details what input the authorities expect for the individual points of the new transfer pricing reporting arrangement, and may provide basic support in completing the related forms of the corporate tax return. However, it is worth browsing through it in advance, when fulfilling the transfer pricing documentation obligation, and if you still have questions then our transfer pricing advisers are happy to help!



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Areas of Expertise

- > international taxation of foreign workers
- > compliance, preparation of tax returns in all taxes
- > VAT-registration of foreign companies and related tax consulting

Hungarian financial statements from foreign general ledgers

What should be checked in the foreign ledgers?

Author: **Anita Toki**
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Hungarian legal regulations allow companies to keep their accounting records abroad in integrated consolidated systems, or to use a specialised global service centre in order to cut costs or maintain their financial competitiveness. Previously, we wrote about the benefits and pitfalls of doing **bookkeeping abroad**, and we also listed the things a company should consider before deciding to do its bookkeeping abroad. Now let's examine what to look out for when preparing Hungarian financial statements from foreign general ledgers.

What do we need Hungarian professionals for?

Today we see companies with foreign parent entities increasingly opting to have their bookkeeping handled abroad. In such cases, these companies use the services of Hungarian accounting firms and/or tax advisory firms to ensure the Hungarian financial statements from foreign general ledgers are also prepared without errors. In other words, based on the general ledger prepared in the integrated system, Hungarian experts help to **compile financial statements that comply with Hungarian rules**, and "translate" processes carried out abroad to ensure they comply with Hungarian legislation.

It is important to note that even in the case of bookkeeping abroad, i.e. when preparing Hungarian financial statements from foreign general ledgers, the company's accounts can **only** be prepared by a **chartered accountant registered in Hungary**. If the company compiles annual financial statements under IFRS, these can also **only** be prepared by a **chartered accountant registered in Hungary as an IFRS specialist**.

If the Hungarian company is subject to an audit, then the audit of the Hungarian entity can **only** be performed by an **audit firm or auditor registered in Hungary**.

Tax returns, annual financial statements and all other reports have to be prepared and submitted to the various Hungarian authorities **in Hungarian**, so these tasks are often performed by the engaged Hungarian accountant or tax advisory firm based on the information provided to them from the integrated system abroad.

What to look out for before preparing Hungarian financial statements from foreign ledgers?

In the six points below we have summarised what should be checked in general ledgers received from accountants abroad before preparing Hungarian financial statements from foreign general ledgers.

1. The integrated systems of foreign companies mostly follow the accounting policies of the parent entity, and are accounted for according to IFRS or US GAAP rules. It is essential to clarify at the outset **what approach was used to prepare the ledger**.
2. Some integrated systems (e.g. SAP) are able to **manage several general ledgers at the same time**, thus it is possible to take Hungarian accounting and taxation rules into account alongside IFRS or US GAAP rules.
3. The **content** of the received general ledger should be clarified and interpreted row by row

so it can be treated properly according to Hungarian rules and the content classified in the appropriate rows of the accounts.

4. **Items** that are permitted under IFRS or US GAAP, but not according to Hungarian accounting standards, **should be eliminated**.
5. The accounting of depreciation and the capitalisation of tangible assets are both key issues from both an accounting and taxation point of view, so it is worth **asking for and learning about the accounting policies applied** before preparing the financial statements.
6. **Reconciling the tax account with the received general ledger** is also an essential task, as we often encounter situations where – for example –

the payment of tax advances or the accounting of taxes are not found in the right place in the foreign general ledger.

Accounting services

Our article highlights just a few points that definitely should be taken into account before preparing Hungarian financial statements from foreign general ledgers. There are of course a number of other factors to consider to ensure that tax returns and financial statements comply with relevant Hungarian provisions. If you need an expert in this field, [our accountants](#) experienced in preparing Hungarian financial statements from foreign general ledgers will be happy to help.



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Areas of Expertise

- > accounting
- > IFRS
- > accounting advisory

The first WTS Global M&A Newsletter has been released

The first edition of the WTS Global Mergers & Acquisitions Newsletter presents updates from eight countries – Austria, Belgium, Brazil, China, France, Poland, Romania and Switzerland – with a focus on the international M&A industry.

You can download the publication in PDF format here: [WTS Global M&A Newsletter #1/2023](#)

This WTS information does not constitute advice and it serves only to provide general information about selected topics.

Any information contained herein shall thus not be considered exhaustive, and nor may it be relied upon instead of advisory services in individual cases. We accept no liability for the accuracy of the content.

Should you have any questions regarding the above or any other professional issues, please do not hesitate to get in touch with your WTS adviser or use any of the contact details below.

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