

**ANALYSIS OF TAX POTENTIAL ON DIFFERENCES IN THE VALUE OF CAPITAL PAYMENTS OF FOREIGN INVESTMENT COMPANIES IN PT YEL IN BADUNG**

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**Abstract:**

This study aims to identify potential taxation implications resulting from differences in capital contribution values in foreign investment companies, using a case study of PT. YEL, Badung Regency. Data collection methods include literature review and observation. The analysis is conducted by calculating interest on the debt-to-receivable relationship between the company and its shareholders, as well as potential taxes on interest income. This study also considers tax calculation options if the company experiences a loss or profit in 2022. The analysis reveals a discrepancy between the capital contribution value stated in the deed of establishment and the actual value, which causes the company to record shareholder receivables and requires it to calculate interest and tax on the difference in capital contribution in 2022. Therefore, careful management of discrepancies in paid-in capital values and a good understanding of their implications for financial statements and tax obligations are crucial for PT YEL and similar companies.

**Keywords:** Deed of Establishment, Profit and Loss, Balance Sheet, Capital Deposit, Tax Potential, Shareholders' Receivables

**INTRODUCTION**

Bali Province is a major tourist destination in Indonesia, attracting numerous tourists and foreign investors. In the past three years, the number of restaurants in Bali has increased from 1,200 in 2021 to 1,600 in 2023, with foreign investment in this sector increasing from USD 50 million to USD 75 million. This growth not only boosts Bali's economy but also creates jobs and enriches the region's tourism potential. According to Law No. 25 of 2007 concerning Investment, there are two types of investment: Domestic Investment (PMDN) and Foreign Investment (PMA). Foreign investment is capital owned by a foreign country, foreign citizen, foreign business entity, foreign legal entity, or Indonesian legal entity whose capital is partially or wholly owned by foreign parties. The authorized capital of a company consists of the total nominal value of its shares.

Foreign investment is regulated by Law No. 4 of 2021 concerning the Investment Coordinating Board (BKPM), which states that PMA companies are categorized as large businesses with a minimum investment value of more than IDR 10 billion, excluding land and buildings. A common problem is the discrepancy between the capital contribution stated in the deed of establishment and the actual amount paid. PT YEL, a foreign-invested company in Bali, had a stated capital of IDR 10.5 billion, but only 70% had been paid in as of December 31, 2022. This discrepancy creates a potential tax overpayment, reflecting the difference between taxes owed and paid, and highlights the need for policies to close this gap.

Hidayah (2020) stated that Indonesia adheres to two taxation principles: the domicile principle and the source principle. The domicile principle allows the tax authorities to collect tax on all income of taxpayers residing in Indonesia, both domestic and foreign. The source principle indicates that



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tax is imposed on income sourced in Indonesia, regardless of the taxpayer's residence. Research by Nur Cahyo Hidayat (2018) found that special relationships between companies significantly influence transfer pricing policies, allowing companies to determine favorable transfer prices to reduce their tax burden. This policy is often used to shift profits to jurisdictions with lower tax rates. Companies with special relationships are more likely to use transfer pricing for tax avoidance.

These findings emphasize the need for stricter regulation and oversight of transfer pricing practices to prevent manipulation that harms state tax revenues. Research by Rahmawati (2019) shows that taxation affects interest income from shareholder receivables and significantly impacts corporate financial decisions. Therefore, interest income management must consider the tax burden to maintain optimal financial strategies. This study also recommends policies to improve corporate tax compliance in managing interest income received by the company, with the aim of creating a fairer and more efficient tax environment.

PT YEL is a Limited Liability Company (PT) established under a notarial deed by I MDW in Gianyar Regency, with its address in Badung Regency, Bali Province. As a foreign-invested company (PT PMA), PT YEL is governed by the minimum capital contribution required by shareholders. The capital contribution stated in the deed of establishment must comply with BKPM regulations, but shareholders often fail to deposit the required capital. Consequently, there is a discrepancy between the capital contribution stated in the deed of establishment and the actual value in the financial statements. This issue is motivated by Article 12 of BKPM Law No. 4 of 2021, which regulates the minimum investment value for large businesses, and PSAK No. 1 (Revised 2009) concerning the presentation of financial statements. This research is interesting because the difference in the capital contribution value in PT YEL's financial statements can lead to potential tax liabilities for the company in its annual tax return and financial statements.

**Tax.** Tax is a compulsory contribution made by the people to the state treasury based on law (which can be enforced) without receiving any direct tangible return and is used to pay for general expenses (Mardiasmo; 2018: 1). Article 1, paragraph 1, concerning General Provisions and Tax Procedures in Law Number 16 of 2009 states, "Tax is a mandatory contribution to the state owed by individuals or entities, which is mandatory under law, without receiving any direct compensation and is used for the greatest possible prosperity of the people."

**Income Tax.** Income Tax is a tax imposed on income received or earned by a taxpayer during a tax year. Income as defined in Article 4 Paragraph (1) of the Income Tax Law, Law Number 7 of 1983, as most recently amended by Law Number 36 of 2008 concerning Income Tax, is any additional economic capacity received or earned by a taxpayer, regardless of its origin, that can be used for consumption or to increase the taxpayer's wealth. The tax year defined in Article (1) of the Income Tax Law, Law Number 7 of 1983, as most recently amended by Law Number 36 of 2008 concerning Income Tax, is a calendar year covering a period of 12 (twelve) months. However, taxpayers may use a fiscal year that differs from the fiscal year, as long as the fiscal year covers a period of 12 (twelve) months.

**Definition of a Limited Liability Company.** According to Law No. 40 of 2007 concerning Limited Liability Companies, a Limited Liability Company (PT) is a legal entity that constitutes a capital association, established based on an agreement, conducts business activities with authorized capital entirely divided into shares, and meets the requirements stipulated in this law and its implementing regulations.

**Capital Investment.** According to Law No. 25 of 2007 concerning Capital Investment, capital investment is any form of investment activity undertaken by investors, both domestic and foreign,



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to conduct business within Indonesia. Domestic investment refers to investments made by domestic investors using domestic capital. Meanwhile, foreign investment refers to investments made by foreign investors, either with entirely foreign capital or through partnerships with local investors.

**Shareholder Receivables.** According to the Indonesian Institute of Accountants (IAI), in its Financial Accounting Standards (SAK) issued in 2019, shareholder receivables are included in the category of company assets. Shareholder receivables are company claims against shareholders related to transactions involving shareholders, such as the purchase of shares on credit or loans granted by the company to shareholders. These receivables are recognized as company assets when a transaction occurs that gives rise to the company's right to receive payment from the shareholder. Upon initial recognition, shareholder receivables are measured at the fair value of the consideration provided, usually a nominal amount to be repaid by the shareholder.

**Capital.** According to Law No. 25 of 2007 concerning Investment, capital is a tangible asset, either cash or other forms, that has economic value and is owned by investors. A company's authorized capital includes the entire nominal value of shares stated in the company's articles of association. Foreign capital includes capital owned by foreign entities, including countries, individuals, or foreign business entities. Meanwhile, domestic capital is capital owned by domestic entities, such as the Indonesian state, Indonesian citizens, or domestic business entities. A company's articles of association determine the number of shares that constitute the authorized capital of a limited liability company (PT).

## METHODS

**Article 32 of Law No. 40 of 2007, Chapter III, Capital and Shares, Part One, Concerning Limited Liability Companies.** The authorized capital for the establishment of a PT (Limited Liability Company) is at least IDR 50,000,000.00 (fifty million rupiah) for domestic PTs. Laws governing certain business activities may determine a higher minimum amount of company capital as referred to in paragraph (1) of Article 32 of Law No. 40 of 2007.

**Article 33 of Law No. 40 of 2007, Chapter III, Capital and Shares, Part One, Concerning Limited Liability Companies.** The establishment of a PT requires the payment of at least 25% of the authorized capital as referred to in Article 32, which must be placed and fully paid up. Such placed and fully paid up capital must be proven by valid proof of payment. This provision is in accordance with paragraph (1) of Article 33 of Law No. 40 of 2007.

**Article 12 of BKPM Regulation No. 4 of 2021 concerning Large Enterprises.** Limited Liability Companies or business entities classified as PMA, as referred to in Article 9 paragraph (1) letter b, are categorized as large enterprises. These businesses are required to comply with the minimum investment value provisions in Article 12 of BKPM Regulation No. 4 of 2021, unless otherwise stipulated by laws and regulations. These provisions require the total investment for PT PMA to be greater than IDR 10,000,000,000.00. This amount excludes land and buildings. This provision applies per business sector with a 5-digit KBLI and per project location.

**Substantive Principles of PSAK No. 1 (Revised 2009) Concerning Presentation of Financial Statements: Fair Presentation and Compliance with PSAK.** Financial statements must present fairly the financial position, financial performance, and cash flows of the entity in accordance with PSAK. This fair presentation requires accurate representation of the effects of transactions, events, and conditions. It must be in accordance with the definitions and recognition criteria for assets, liabilities, revenue, and expenses. Accurate presentation is essential to reflect the true financial condition. Disclosure of the accounting policies used in preparing the financial statements must be



disclosed, including the measurement basis used and other policies necessary for an understanding of the financial statements.

**Article 18, paragraphs 3 and 4 of Law Number 36 of 2008 concerning Income Tax.** A special relationship is considered to exist if a Taxpayer has a direct or indirect equity participation of at least 25% in another Taxpayer. It includes a relationship between a Taxpayer with a minimum 25% participation in two or more other Taxpayers. A special relationship also exists if a Taxpayer controls another Taxpayer or if two or more Taxpayers are under the same control, either directly or indirectly. Furthermore, a special relationship can exist if there is a blood or in-law relationship in a direct line of descent. This relationship also applies to descendants up to one degree later. All of these provisions are regulated in paragraphs (3) to (3d), Article 9 paragraph (1) letter f, and Article 10 paragraph (1).

**PMK No. 213/PMK.03/2016 concerning the Principle of Arm's Length and Customary Business Practices in Transactions Between Taxpayers and Related Parties.** PMK 213/PMK.03/2016 was issued to ensure that transactions between taxpayers and related parties are conducted fairly and in accordance with prevailing market conditions, so that the transfer prices used reflect actual conditions in the free market. The Arm's Length Principle requires that the price or profit in transactions between related parties must be equal to the price or profit that would occur if the transaction were conducted between unrelated parties under comparable conditions.

**SE-50/PJ/2013 Concerning Special Relationships.** The technical instructions in this Circular Letter are used as a guide for audits of Taxpayers meeting certain criteria, namely: special or routine audits of Taxpayers identified as having a risk of tax evasion in transactions with related parties prior to the issuance of an Audit Order (SP2), as well as audits that identify related tax evasion risks during implementation, thus requiring adjustments to the Audit Plan and Program in accordance with the provisions.

**Circular Letter SE-11/PJ/2010 Concerning the Determination of the Total Benchmarking Ratio.** Circular Letter SE-11/PJ/2010 concerning the Determination of the Total Benchmarking Ratio Phase II aims to provide guidelines for determining the total ratio used as a benchmarking reference for Taxpayers. For the Classification of Business Fields (KLU) of food and restaurant establishments, this circular provides more structured guidelines for calculating and reporting taxes payable. With this total ratio, it is hoped that food and restaurant establishments will be more consistent and accurate in their tax reporting and minimize the potential for non-compliance that could lead to sanctions.

**PER-22/PJ/2023 Concerning Guidelines for Audits of Taxpayers with Special Relationships.** Article 2, paragraph (1) of the Value Added Tax Law also states that if a special relationship influences the Selling or Replacement Price, then the price is calculated based on the fair market price. Transfer pricing audits of affiliated transactions essentially examine the application of arm's length principles to affiliated transactions such as sales, purchases, transfers of tangible assets, intra-group services, transfers of intangible assets, interest payments, and share transactions. These audit guidelines are designed to ensure that affiliated transactions comply with arm's length principles.

**JIBOR.** JIBOR is the average indicative interest rate offered by contributing banks for loans in Rupiah in Indonesia. As an interbank interest rate benchmark, JIBOR is used as a reference in setting loan interest rates, pricing financial instruments, and measuring financial performance. Bank Indonesia sets this interest rate based on quotations from contributing banks.

**Tax Potential.** Tax potential is the potential revenue arising from the difference between the taxes that taxpayers should pay and the taxes that they have paid, known as the tax gap. The tax gap



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describes the difference between the tax obligations that should be met and those that have been met. According to Ben Langford, tax potential is the maximum amount of tax revenue a country can achieve at a given point in time, based on prevailing characteristics. Although tax potential cannot be directly observed, it can be estimated empirically.

**Income Tax Article 25/29.** Income Tax Article 29 is the income tax payable by corporate and individual taxpayers in Indonesia. Income Tax Article 29 is a tax payment made after calculating the total tax payable in a tax year, minus any tax paid through installments or deductions. Income Tax Article 25 is a tax installment that taxpayers must pay in the current year. Income Tax Article 25 installments represent a portion of the tax payable for that year and are calculated based on the previous year's income tax. Income Tax Article 25 aims to ease the burden of tax payments at the end of the year by dividing tax payments into several installments.

## RESULT AND DISCUSSION

### List of Shareholder Details.

**Table 1.** Shareholder Details

Stock Sheet	Stock Value	Shareholders
7.140	7.140.000.000	TCH Limited
3.360	3.360.000.000	GPTG Limited

"In Article 20 of the Deed of Establishment of PT YEL in 2022, regarding the closing, it is stated that PT YEL has for the first time placed and paid up 100% (One Hundred Percent) in cash through the company's cash, amounting to 10,500 (Ten Thousand Five Hundred) shares with a total nominal value of Rp. 10,500,000,000 (Ten Billion Five Hundred Million Rupiah), with the following details:"

1. TCH Limited, with 7,140 (Seven Thousand One Hundred Forty) shares with a total nominal value of Rp. 7,140,000,000 (Seven Billion One Hundred Forty Million Rupiah).
2. GPTG Limited, with 3,360 (Three Thousand Three Hundred Sixty) shares with a total nominal value of Rp. 3,360,000,000 (Three Billion Three Hundred and Sixty Million Rupiah)

### Balance Sheet.

**Table 2.** Balance Sheet

PT. YEL  
 KAB. BADUNG, BALI, 80365  
 NERACA  
 2022

ASSET		LIABILITIES AND CAPITAL	
<b>ASSET</b>		<b>LIABILITIES AND EQUITY</b>	
<b>CURRENT ASSETS</b>		<b>CURRENT LIABILITIES</b>	
Cash and Banks	1,034,020,726	Accounts payable	6,419,520,926
Accounts receivable	113,810,380	Tax Debt	90,000,00
Other receivables	3,418,035,000	Other Current Liabilities	18,000,00
Other Current Assets	746,819,613	<b>Total Current Liabilities</b>	<b>6,527,520,926</b>
<b>Total Current Assets</b>	<b>5,312,685,718</b>		



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		Long-Term Liabilities	1,110,664,267
<b>Fixed Assets</b>		<b>Long-Term Debt</b>	1,110,664,267
Land and Buildings	750,000,00	<b>Capital</b>	
Other Fixed Assets	2,813,093,071	Capital stock	10,500,000,00
Accumulated depreciation	(183,268,300)	Retained Earnings/Loss Current Year Profit/Loss	(9,448,256,930)
<b>Total Fixed Assets</b>	<b>3,379,824,771</b>	Other Equity	2,582,227
<b>TOTAL ASSET</b>	<b>8,692,510,490</b>	<b>Total Capital</b>	1,054,325,297
		<b>Total liabilities and equity</b>	8,692,510,490

PT YEL's 2022 balance sheet lists a capital value of IDR 10,500,000,000. The company also recorded a current asset account in the form of other receivables amounting to IDR 3,418,035,000. This other receivable arises from the difference between the capital contribution stated in the deed of establishment and the actual amount paid by shareholders, which can be recorded as Shareholder Receivables. This receivable creates potential tax liability for the company, which is owned by two foreign corporate taxpayers, TCH Limited and GPTG Limited.

**Table 2.** Income Statement PT YEL Income Statement (Real)

PT YEL PROFIT & LOST Profit and Loss Statement January 1, 2022 to December 31, 2022	
INFORMATION	COMMERCIAL
<b>Income</b>	
Income	---
HPP	---
<b>Gross profit</b>	---
<b>Business Costs</b>	
Personnel Costs	54,000,000
Admin & General Fees	542,586,080
Depreciation Expense	183,268,300
Operating costs	8,666,684,365
<b>Total Business Costs</b>	<b>9,446,538,745</b>
<b>Operating Profit</b>	<b>(9,446,538,745)</b>
<b>Income (Expenses) Outside Business</b>	
Interest Income	---
Other Income	2,582,227
Bank administration	(1,718,185)
Total Costs Outside of Business	864,042
COMMERCIAL NET PROFIT	(9,445,674,703)
Positive Fiscal Correction	9,272,527
<b>FISCAL PROFIT</b>	<b>(9,436,402,176)</b>



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**Table 3. Income Statement (Proforma)**

PT YEL	
PROFIT & LOST	
Profit and Loss Statement January 1, 2022 to December 31, 2022	
INFORMATION	COMMERCIAL
<b>Income</b>	
Income	---
HPP	---
<b>Gross profit</b>	<b>2,750,000,00</b>
<b>Business Costs</b>	
Personnel Costs	54,000,000
Admin & General Fees	242,586,080
Depreciation Expense	183,268,300
Operating costs	8,666,684,365
<b>Total Business Costs</b>	<b>1,146,538,745</b>
<b>Operating Profit</b>	<b>(1,603,461,255)</b>
<b>Income (Expenses) Outside Business</b>	
Interest Income	---
Other Income	239,003,606
Bank administration	(1,718,185)
Total Costs Outside of Business	237,285,421
<b>COMMERCIAL NET PROFIT</b>	<b>(1,840,746,676)</b>
Positive Fiscal Correction	9,272,527
<b>FISCAL PROFIT</b>	<b>1,850,019,203</b>

Of the two options for PT YEL's 2022 Profit and Loss Report, Table 4.3 lists the company's loss in 2022 at Rp9,436,402,176. This loss resulted from costs incurred in the construction of the company's restaurant, including salaries, permits, commissions, water, telephone, electricity, rent, and project management (Heykal et al., 2024). Meanwhile, the option presented in Table 4.4 lists a profit of Rp1,685,327,132, presented in a pro forma profit and loss statement, referring to Circular Letter (SE-11/PJ/2010) concerning the determination of the Total Benchmarking Ratio for Phase II in 2007 with percentage rates of GPM (62.23%), OPM (9.43%), and PPM (8.57%). This table aims to illustrate the potential taxation that would arise if there is a difference in capital contributions to a PMA company, if the company experiences a profit or loss.

**Capital - PT YEL.**

**Table 4. Capital Details**

	Deed of Incorporation	Real Value
<i>Capital</i>	<b>10.500.000.000</b>	<b>10.500.000.000</b>
Capital that has been paid in	10.500.000.000	7.081.965.000
<i>Unpaid capital</i>	-	<b>3.418.035.000</b>



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From the details of the following capital table, there is capital that has not been paid by shareholders as of December 31, 2022, amounting to Rp. 3,418,035,000. With details of capital that has not been paid by shareholders as of December 31, 2022, by TCH Limited, amounting to Rp. 1,318,035,000 and GPTP Limited amounting to Rp. 2,100,000,000 of the capital in the deed should be paid 100% by shareholders. So the total value that shareholders have not paid as of December 31, 2022, is Rp. 3,418,035,000.

**Interest Calculation - Special Relationship (Debt and Receivables) between the Company and Shareholders.**

BI Interest Rate (JIBOR) for 12 Months	6.91688%
Shareholders' Receivables as of December 31, 2022	Rp. 3.418.035.000
Capital that has been paid in	Rp. 7.081.965.000
Capital recorded in the deed (PMA)	Rp. 10.500.000.000
Interest on Loans	= 3.418.035.000 x 6.91688 % = 236.421.379,308(12 Months)

**Calculation of Income Statement Value (Real).** Table 3, which lists PT Yel's 2022 Income Statement, shows the company experienced a loss of IDR 9,445,674,703 and a positive fiscal correction of IDR 9,272,527. This loss will then be recalculated based on PT YEL's tax potential and policies.

$$\begin{aligned}
 \text{PT YEL's Loss} &= \text{Commercial Net Profit} + \text{Fiscal Correction} \\
 &= 9,445,674,703 + 9,272,527 \\
 &= 9,436,402,176
 \end{aligned}$$

PT YEL's fiscal loss carryforward for the following year is IDR 9,436,402,176

**Calculation of the Proforma Income Statement.** Table 4, which lists PT Yel's 2022 Proforma Income Statement, shows that the company experienced a profit, calculated using the Total Benchmarking Ratio in SE-11/PJ/2010. The report shows a profit of IDR 1,685,327,131, plus other income from interest on special relationships with shareholders of IDR 236,421,379. However, in reality, the company experienced a loss of IDR 9,436,402,176. The profit in this proforma report will be recalculated for potential tax purposes as a baseline if the company makes a profit.

$$\begin{aligned}
 \text{Net} &= 1,685,327,131 + 236,421,379 \\
 &= 1,921,748,510
 \end{aligned}$$

Income Tax Article 29 for Gross Turnover above 4.8 billion and below 50 billion.

$$\begin{aligned}
 \text{Facilities} &= (4,800,000,000 : 17,871,973,818) \times 1,921,748,510 \\
 &= 499,654,613 \\
 &= 499,654,613 \times 50\% \times 20\% \\
 &= 49,965,461
 \end{aligned}$$

$$\begin{aligned}
 \text{Non-Facilities} &= 1,921,748,510 - 499,654,613 \\
 &= 1,422,093,897 \\
 &= 1,422,093,897 \times 20\%
 \end{aligned}$$



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$$= 284,418,779$$

$$\begin{aligned}
 \text{PPh 29} &= 49,965,461 + 284,418,779 \\
 &= 334,384,240
 \end{aligned}$$

There are two examples of income statement calculation options, referring to Table 4.3 (Actual) and Table 4.4 (Proforma) for two types of tax applications. First, PT YEL incurred a loss and therefore has no income tax liability because it uses the normal rate, and the 2022 loss of Rp9,436,402,176 can be offset in the 2023 tax return. Second, if the company has a profit in 2022 plus fiscal corrections and other understated income, the taxable profit will be subject to Income Tax Article 29 (PPh 29) according to the company's gross turnover group.

Journal Recording Interest Income on Shareholders' Receivables	
Interest Receivable	236.421.379
Unearned Interest Income	236.421.379
Journal of PPh 29 Tax Recording on PT YEL's Profit	
PPh 29 Fee	334.384.240
Article 29 Income Tax Debt	334.384.240

## CONCLUSION

Based on an analysis of the problems faced by PT YEL regarding the discrepancy between the paid-in capital value stated in the deed of establishment and the actual value, and the potential tax implications resulting from this situation, the following conclusions can be drawn:

1. The discrepancy between the paid-in capital value stated in the deed of establishment and the actual value contributed by shareholders creates discrepancies in the company's financial statements. This discrepancy can pose problems for the company's compliance with applicable laws and regulations and permits.
2. If capital is not fully paid in accordance with the deed of establishment, the company is potentially subject to tax on interest income recognized on unpaid shareholder receivables. This interest income will be subject to corporate income tax (PPh 29) if the company generates a profit. However, if the company experiences a loss, there is no potential tax calculation, and the loss can be offset.

Therefore, careful management of discrepancies in paid-in capital values and a good understanding of their implications for financial statements and tax obligations are crucial for PT YEL and similar companies.

**Suggestion.** The capital value of a foreign-owned company (PT PMA) is regulated in Article 12 of Law No. 4 of 2021 on the Investment Coordinating Board (BKPM), which states that capital must be fully paid up for a value exceeding 10 billion rupiah. Companies must record the difference between the capital contribution stated in the deed of establishment and the actual value, and consider potential tax implications. Shareholders should fully pay up capital to avoid corporate income tax (PPh 29). If shareholders do not contribute capital as stated in the deed, the difference must be calculated as interest income for the company. This interest income is potentially taxable if



the company generates a profit, while if the company experiences a loss, the loss can be offset in the following year.

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