Top Planning Ideas for 2025

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As new laws become effective and old laws phase out, clients should be mindful of how these changes potentially may impact their respective tax and estate planning situations. Below are some ideas to keep top of mind throughout the upcoming year.

1. Corporate Transparency Act

The Corporate Transparency Act (CTA) created new reporting requirements that will affect many family businesses and other entities that families use in their wealth structures.[1] Under the CTA, reporting companies must provide information about their beneficial owners to the Financial Crimes Enforcement Network (FinCEN).[2] These reporting requirements, which apply to many family-controlled and other types of companies, aim to diminish the ability of bad actors to use entities for illicit purposes, including corruption, money laundering, terrorist financing, and tax evasion.[3]

A reporting company generally is any corporation, limited liability company, or other entity formed or registered in the United States, unless it qualifies for an exemption. A trust is not a reporting company. A beneficial owner generally is any individual who (directly or indirectly) exercises substantial control over the reporting company or (directly or indirectly) owns or controls 25% or more of the reporting company's ownership interests.

For more information on the reporting requirements, see Todd D. Mayo, Beneficial Ownership Reporting Requirement under the Corporate Transparency Act (a publication of the UBS Advanced Planning Group).[4]

[1] Pub. Law 116-283 (2021), §§ 6401 to 6403.
[2] See, generally, 31 USC § 5336(b)(1).
[3] 87 Fed. Reg. 59498, 59500-59507.
[4] New York also has enacted a similar law with respect to limited liability companies formed or registered in New York. For more information on this law, see Todd D. Mayo, *New York Enacts LLC Transparency Act, Requiring Disclosure of Limited Liability Companies' Beneficial Owners* (a publication of the UBS Advanced Planning Group).

The CTA originally was to take effect on January 1, 2025 according to FinCEN regulations.[5] However, the CTA was challenged in court in multiple cases on constitutional grounds.[6] One case was initiated by Texas Top Cop Shop in federal district court in Texas.[7] What happened next was a series of rulings that had the CTA on again and off again. In December of 2024, the federal district court in Texas imposed a nationwide preliminary injunction of the CTA, suspending its implementation.[8] Thereafter, the case went to the Fifth Circuit Court of Appeals, which first granted the federal government's emergency motion to stay (suspend) the nationwide preliminary injunction pending appeal (meaning filing requirements were back in force).[9] But then, the Fifth Circuit Court of Appeals vacated (voided) its December 2024 order (meaning filing requirements were suspended again).[10] The matter then went before the U.S. Supreme Court, in January 2025. The Court stayed (suspended) the nationwide injunction (meaning the CTA is back in force), pending the appeal to the Fifth Circuit.[11] However, the Supreme Court's stay of the injunction in that case does not apply to a second nationwide injunction barring enforcement of the CTA that was imposed by the Eastern District of Texas on January 7, 2025.[12]

Thus, FinCEN released a statement on January 24, 2025, stating despite the January 23, 2025, Supreme Court ruling, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the stay imposed in the other federal case remains in effect. Reporting companies may, however, continue to voluntarily submit beneficial ownership information reports. Given the on again off again application of the CTA, the filing deadlines have been extended. If the CTA ultimately is permitted, there likely will be new filing deadlines.

2. Updating Basic Estate Planning Documents

a. Review core estate plan

An individual periodically should review their estate plan to ensure that the plan reflects their current wishes and objectives. This includes both tax and non-tax objectives. This review may be especially important if there has been a significant life event—such as a marriage, divorce, birth, or death—or a significant change in financial circumstances.

An individual's core estate plan generally includes: a Will, revocable trust, power of attorney for financial and legal matters, power of attorney for healthcare (also known as a health care proxy or directive), living will, and in some states, nomination of guardians. For many individuals, the revocable trust is the cornerstone of their estate plan, facilitating management of assets during life if they become incapacitated, and directing the transfer of assets after their death.

When funded during life, a revocable trust also can provide a means of transferring wealth while avoiding probate. Probate is a court-supervised process for validating a Will and appointing an Executor (in some states, referred to as a Personal Representative) in order to transfer a decedent's assets. A revocable trust typically is a more advantageous method of transferring wealth than probate. A revocable trust generally provides more privacy, potentially avoids certain legal and administrative costs, and may facilitate a more expeditious transfer of wealth after an individual's death.

Ensuring that all these documents are properly in order, especially when life circumstances change, is critically important.

For more information about core estate planning, see Todd D. Mayo, Jacqueline Denton and Chelsea Rubio, *2025 Planning Guide* (a publication of the UBS Advanced Planning Group).

[5] *Beneficial Ownership Information Reporting Requirements,* 87 Fed. Reg. 59498 (September 30, 2022). In 2021, FinCEN promulgated proposed regulations. See *Beneficial Ownership Information Reporting Requirements,* 86 Fed. Reg. 69920 (December 8, 2021). FinCEN had previously issued an advance notice of proposed rulemaking, soliciting comments on the regulations implementing the reporting requirements. See *Beneficial Ownership Information Reporting Requirements,* 86 Fed. Reg. 17557 (April 5, 2021).
[6] See, *Texas Top Cop Shop, Inc. v. McHenry*, Case No. 24-40792 (5th Cir. 2024); *Firestone v. Yellen*, Case No. 3:24-cv-1034-SI (D. Ore. 2024); *National Small Business United v. Yellen*, 721 F. Supp. 3d. 1260 (N.D. Ala. 2024) (Case No. 5:22-cv-1448-LCB); *Smith v. Treasury*, No. 6:24-CV-336 (E.D. Tex. 2025).
[7] *Texas Top Cop Shop, Inc. v. McHenry*, Case No. 4:24-CV-478 (E.D. Tex. 2024).
[8] Id.
[9] *Texas Top Cop Shop, Inc. v. McHenry*, Case No. 24-40792 (5th Cir. 2024).
[10] Id.
[11] *McHenry v. Texas Top Cop, Inc.*, 604 U.S. ____ (2025), suspending injunction upheld by the Fifth Circuit Court of Appeals in *Texas Top Cop Shop, Inc. v. McHenry*, Case No. 24-40792 (5th Cir. 2024).
[12] *Smith v. Treasury*, No. 6:24-CV-336 (E.D. Tex. 2025).

b. Asset titling

Asset titling, meaning how an individual's assets are legally owned, is a critical but often overlooked component of financial and estate planning. Even the most sophisticated and well thought out plan can be put in jeopardy if asset titling is not in sync with the plan. Asset titles should be examined both at the time the estate plan is implemented and periodically thereafter, as changes to the balance sheet or to an estate plan occur. Asset titling has far reaching implications, impacting not only estate planning but also creditor protection, income tax planning, and incapacity planning.

Deciding how to title assets can be a complex proposition and every individual's strategy depends on their own unique circumstances, goals, and state of residency. An individual should be certain of exactly how they hold their interest in an asset in order to assess what and how much they may transfer, and how best to do so. Examples include sole ownership in one's name, joint tenancy-in-common, joint tenancy with rights of survivorship, tenancy by the entirety, a revocable trust or other entity.

For more information about *asset titling*, see Catherine McDermott, Asset Titling (a publication of the UBS Advanced Planning Group), and Todd D. Mayo, Jacqueline Denton and Chelsea Rubio, *2025 Planning Guide* (a publication of the UBS Advanced Planning Group).

c. Beneficiary Designations

Similar to asset titling, reviewing beneficiary designations is critical to an estate plan. Generally, retirement accounts (e.g., IRA, 401(k)), life insurance, and transfer on death (TOD) accounts will pass according to the beneficiary designation and bypass the Will and revocable trust. Ensure that the beneficiary designations are coordinated with the overall estate plan.

3. Sunset of Certain Income Tax Rates

Many of the provisions of the Tax Cuts and Jobs Act (our current tax law) will sunset at the end of 2025. Although Congress may act to extend some or all of them, it is important to know which provisions are expiring so taxpayers can be prepared to maximize their tax savings in case the provisions sunset as currently scheduled. The following are some of the important income tax provisions that may change. The list below is not exhaustive.

- **Individual tax rates:** The TCJA lowered income tax rates to 10%, 12%, 22%, 24%, 32%, 35%, and 37%. The top rate decreased to 37% from 39.6%. Starting January 1, 2026, the top tax rate will revert to 39.6%.[13]
- **Standard deduction:** The TCJA also nearly doubled the standard deduction for all filing statuses.[14] As a result, many taxpayers have not itemized deductions. Starting January 1, 2026, the standard deduction will be about half of what it is currently, adjusted for inflation.
- **Itemized deductions:** The following items were temporarily modified or suspended by the TCJA:
  - SALT: The state and local tax (SALT) deduction was capped at $10,000, which had a significant impact on taxpayers in high-tax states. Starting January 1, 2026, this limitation will expire, allowing greater benefit from deducting taxes paid during the calendar year, including real estate taxes, state or local income taxes, and personal property taxes.[15]
  - Mortgage interest deduction: The TCJA generally suspended the home equity loan interest deduction. It limited the home mortgage interest deduction to the first $750,000 of debt (if married filing jointly) for any loan originating on or after December 16, 2017. Starting January 1, 2026, the mortgage interest deduction will revert to pre-TCJA levels, allowing interest to be deducted on the first $1 million in home mortgage debt and $100,000 in a home equity loan.[16]
  - Miscellaneous itemized deductions: The TCJA temporarily eliminated most miscellaneous itemized deductions, such as investment/advisory fees, legal fees, and unreimbursed employee expenses. These deductions once again will be allowed, starting January 1, 2026, under the previous rules, to the extent they exceed 2% of the taxpayer's adjusted gross income.[17]

For more information on these income tax topics, see Todd D. Mayo, Jacqueline Denton and Chelsea Rubio, *2025 Planning Guide* (a publication of the UBS Advanced Planning Group).

[13] https://www.thetaxadviser.com/issues/2023/dec/tax-planning-for-the-tcjas-sunset.html.

[14] Id. IRC § 63; Revenue Procedure 2024-40. The TCJA increased the standard deduction to $12,000 for single filers and $24,000 for married filing jointly. Due to the inflation adjustment, in 2025, the standard deduction is $15,000 for single filers and $30,000 for married filing jointly.

[15] For more information on the SALT deduction and potential workarounds, see Todd D. Mayo, *SALT Cap Workarounds* (a publication of the UBS Advanced Planning Group).

[16] For more information on interest deductions, see Todd D. Mayo, *Tax-Aware Borrowing* (a publication of the UBS Advanced Planning Group).

[17] https://www.thetaxadviser.com/issues/2023/dec/tax-planning-for-the-tcjas-sunset.html.

4. Netting Capital Gains and Losses

In light of the potential expiration of TCJA tax cuts, individuals should consider whether to accelerate or defer income, deductions, and credits based on their particular tax situation, if feasible. There are limitations on the extent to which an individual can accelerate and defer these items and, of course, the individual should consider the potential impact on state and local taxes, as well as federal taxes. Understanding how these gains and losses work is an important factor in this decision.

An individual must net their recognized gains and losses. A short-term capital gain or loss arises upon the sale or exchange of a capital asset held for one year or less.[18] A long-term capital gain or loss arises upon the sale or exchange of a capital asset held for more than one year.[19] If their short-term capital gains exceed their short-term capital losses, the individual will have a net short-term capital gain.[20] Otherwise, the individual will have a net short-term capital loss.[21] Similarly, the individual must net their long-term capital gains and long-term capital losses. If their long-term capital gains exceed their long-term capital losses, the individual will have a net long-term capital gain.[22] Otherwise, the individual will have a net long-term capital loss.[23]

If an individual has a net long-term capital gain and that gain exceeds their net short-term capital loss, the excess is their net capital gain.[24] As we discuss below, net capital gain is taxed at a more preferential rate than ordinary income. In contrast, if the individual has a net short-term capital gain and that gain exceeds their net long-term capital loss, the excess is taxed as ordinary income.[25] In 2025, the top marginal rate for net capital gain generally is 20% (or 23.8% if the net investment income tax also applies), and the top marginal rate for ordinary income is 37%.[26]

If the individual's capital losses exceed their capital gains, the individual can deduct up to $3,000 (or $1,500 if the individual is a married individual filing separately) of the excess against ordinary income.[27] The individual can carry the nondeductible losses forward to offset net capital gains and ordinary income in future years indefinitely.[28] In each year into which they carry those losses forward, the individual can only deduct up to $3,000 (or $1,500 if the individual is a married individual filing separately) of those losses against ordinary income.[29] The losses that an individual carries forward retain their character as short-term or long-term capital losses.[30]

For more information on netting gains and losses, see Todd D. Mayo, Jacqueline Denton and Chelsea Rubio, *2025 Planning Guide* (a publication of the UBS Advanced Planning Group).

[18] IRC §§ 1222(1) and (2).
[19] IRC §§ 1222(3) and (4).
[20] IRC § 1222(5).
[21] IRC § 1222(6).
[22] IRC § 1222(7).
[23] IRC § 1222(8).
[24] IRC § 1222(11).
[25] See IRC § 1(h) and (j)(2).
[26] See IRC §§ 1(h), (j)(2), and 1411(a).
[27] IRC §§ 165(f) and 1211(b).
[28] IRC § 1212.
[29] IRC § 1211.
[30] IRC § 1212(b)(1).

5. Roth Conversions

In some situations, an individual might consider converting a traditional IRA to a Roth IRA. A Roth IRA potentially offers significant benefits, most notably tax-free growth of assets, tax-free distributions, and no RMDs during the individual's life.[31] When converting from a traditional IRA to a Roth IRA, the converted amount is taxable to the IRA owner as ordinary income in the year in which the conversion occurs.[32]

When deciding whether to make a conversion, an individual should consider potential changes to the income tax rates that may occur over their life. A conversion may not be optimal if the individual expects to pay income taxes at a lower rate after they retire when they will receive distributions. The individual also should consider the liquidity needs that a conversion may create. A conversion may be less advantageous if the individual must draw from the converted amount—instead of other liquid assets—to pay the taxes caused by the conversion.

As discussed above, individuals should keep in mind the upcoming expiration of the TCJA tax cuts and how that might affect their decision regarding a conversion.

For more information on Roth conversions, see Carrie J. Larson, *Roth Conversions* (a publication of the UBS Advanced Planning Group) and Todd D. Mayo, Jacqueline Denton and Chelsea Rubio, *2025 Planning Guide* (a publication of the UBS Advanced Planning Group).

6. Gifting Exemptions and Sunset of Lifetime Exemption

Under current law, the federal gift, estate and generation-skipping transfer (GST) tax exemptions are all a base of $10 million, adjusted for inflation since 2011. The 2025 inflation adjusted amount is $13.99 million per person and $27.98 million for married couples (meaning these amounts can pass transfer tax free to a taxpayer's designated beneficiaries).[33] Unless Congress takes action this year, on January 1, 2026,[34] the existing gift and estate tax laws under the TCJA will sunset, or expire, and the tax law will revert to prior law when the base exemption amount was $5 million (with an inflation adjustment).
A taxpayer who gifts during lifetime or bequeaths at death an amount greater than the then gift/estate tax exemption may be subject to a federal tax at a rate of up to 40% on the value over the exemption.

In addition to the lifetime gift/estate tax exemption, there also is an annual gift tax exclusion that can be utilized to make tax free gifts (a base amount of $10,000, per donee, with an inflation adjustment).[35] In 2025, the annual exclusion allows an individual to give up to $19,000 to any number of individuals ($38,000 per married couple). Gifts in excess of this amount count against an individual's lifetime gift tax exemption. There also is an unlimited gift tax exclusion for qualifying payments of tuition paid directly to an educational institution and for the payment of medical expenses (including health insurance premiums) to qualified institutions.

[31] IRC § 408A.
[32] IRC § 408A(d)(3).
[33] IRC § 2010(c)(3)(C); Revenue Procedure 2024-40.
[34] IRC § 2010(c)(3)(C).
[35] IRC § 2503.

7. Spousal Lifetime Access Trusts (SLATs)

There are significant benefits to making lifetime gifts of assets that are likely to appreciate in value, especially as we face a potential estate tax exemption decrease. There are various estate planning techniques that should be considered to utilize the gift and estate tax exemption and move assets outside of a person's taxable estate. A spousal lifetime access trust (SLAT) may enable a married individual to take advantage of the current lifetime gift tax exemption while maintaining indirect access to the assets.

When creating a SLAT, the donor/grantor transfers assets up to the remaining lifetime exemption amount to an irrevocable trust. The grantor's spouse is named as a beneficiary, along with other beneficiaries, such as children and more remote descendants. During the spouse's lifetime, the trustee may make distributions of income and principal to any one or more of the beneficiaries. Therefore, as long as the couple is married and the beneficiary spouse is alive, a distribution to the beneficiary spouse can be made to bring assets back into the household. Of course, one would not want to bring the assets back into the grantor's or spouse's taxable estate. Nevertheless, the option is there, if needed. A SLAT typically is drafted as a grantor trust for income tax purposes, so that the grantor is responsible for the income taxes on the trust's assets, which reduces the grantor's taxable estate and allows the assets in the trust to grow without the reduction for tax liabilities. Married couples can set up SLATs for each other, however it is extremely important that the trusts not be substantially similar as the Internal Revenue Service (IRS) could apply the reciprocal trust doctrine, which will include the assets of each trust in the grantor's and spouse's estates for estate tax purposes.

For more information about spousal lifetime access trusts, see Catherine McDermott, *Spousal Lifetime Access Trusts* (a publication of the UBS Advanced Planning Group).

8. Upstream Planning

Upstream planning refers to estate planning in favor of senior generations rather than the typical downstream planning for children, grandchildren and more remote descendants. Under current law, the estate tax exemption is higher than ever before (as stated earlier, $13.99 million in 2025, or $27.98 million for a married couple). Individuals with estates that exceed the exemption may consider transferring assets to senior family members who may not have large estates. For example, an entrepreneur may have parents or grandparents that have much more modest estates, far below the federal and any state estate tax exemption. If the entrepreneur transfers assets to their parents, those assets could be included in the parents' estates and shielded from estate tax (and potentially GST tax) due to their exemptions. In addition, when the parent dies, the child or other family members could inherit the assets back with a step-up in basis (explained in more detail below).

The donor may use gift tax exemption to make the gift, or could employ other estate planning techniques to transfer the assets. There are significant risks with this strategy. One risk is that the donee may be subject to federal and state estate taxes if the laws are changed. Also, the donee beneficiary has no obligation to the donor and may leave the assets to another beneficiary. Another risk is that an appreciated asset will not receive a step-up in basis if the asset was gifted to the decedent from the beneficiary within one year of death.[36] There are ways to address some of the risks: The assets can be bequeathed to the donor's other family members, such as the donor's children so that the one-year rule is inapplicable, or the donor could transfer the asset into a trust that grants the donee a general power of appointment resulting in estate tax inclusion. Another option is to gift to a trust that allows an independent person to grant and modify powers of appointment to adjust to future tax law changes.

9. Basis Planning

At death, generally, appreciated assets that are included in an individual's estate for estate tax purposes receive a step-up in basis to fair market value, eliminating any built in capital gain in the hands of the beneficiary.[37] Assets that are not part of the decedent's estate, such as assets gifted during lifetime, maintain the donor's basis and receive no step-up at the donor's death.[38] The basis step-up can lead to significant income tax savings at the federal and state level, although there is a tradeoff, which is potential exposure to estate tax. Often the estate tax savings by gifting during lifetime will outweigh the benefit of the step-up. Certain techniques may be employed to achieve a step-up in basis, even for assets gifted during lifetime. Examples include upstream planning, explained earlier, distribution of assets to a trust beneficiary to cause estate tax inclusion when there is no estate tax exposure, granting a beneficiary a general power of appointment, and swapping assets with an income tax grantor trust to substitute high basis assets for lower basis assets.[39]

[36] IRC § 1014(e).
[37] IRC § 1014.
[38] IRC § 1015.
[39] Under Sections 671-679 of the Internal Revenue Code, the grantor of certain trusts, referred to as grantor trusts, are deemed to own the trust assets for income tax purposes. Since the grantor and the trust are the same taxpayer for income tax purposes, an exchange of assets between them will not trigger income tax consequences. Rev. Rul. 85-13; 1985-1 C.B. 184.

10. Late Generation Skipping Transfer (GST) Tax Exemption Allocation

The GST tax is a tax incurred when assets are transferred to an individual who is two or more generations below the donor (or 37.5 years younger, for unrelated individuals) known as a "skip person." If a skip person is the beneficiary of a trust, distributions to the beneficiary may trigger the GST tax at a rate of 40% (the highest estate tax rate). Like the gift and estate tax exemption, there is a GST tax exemption equal to the then estate tax exemption (in 2025, $13.99 million). Allocating GST exemption to a trust can shield that trust from the GST tax so that distributions to grandchildren or more remote descendants do not trigger the tax. The allocation is made on a timely filed gift tax return. There also are automatic allocation rules that apply GST exemption when no return is filed. If GST tax is not timely allocated, a late allocation of GST is available. If an existing trust is not GST exempt, one could allocate exemption to the trust based on the current value of the assets. A late allocation treats the allocation as if it was made on the first day of the month in which the late allocation occurs.[40] The late allocation will become effective on the date it is filed.

For more information about the generation-skipping transfer tax, see Rebecca Sterling, *Generation-Skipping Transfer Tax* (a publication of the UBS Advanced Planning Group).

11. Grantor Retained Annuity Trusts (GRATs)

With the goal in mind of transferring future appreciation of assets outside of one's taxable estate to the intended beneficiaries, one option is a Grantor Retained Annuity Trust, or GRAT. A GRAT initially is funded with assets that are expected to increase in value and is set up for a specified term. Each year of the GRAT term, a specific dollar amount (the annuity) is distributed to the grantor of the GRAT. At the conclusion of the GRAT term, any remaining trust property is distributed to the grantor's designated beneficiaries or held in trust for their benefit. When creating a GRAT, the grantor is making a gift equal to the value of the donated property reduced by the present value of the annuity stream payable to the grantor. In arriving at the present value, the IRS assumes that there will be annual growth and publishes the growth rate on a monthly basis.[41] To minimize the taxable gift, generally, the annuity stream is set so that the present value is roughly equal to the value of the assets transferred to the GRAT, resulting in a zero or minimal taxable gift. If the assets in the GRAT appreciate at a rate that exceeds the IRS's assumed growth rate, that excess can pass to the beneficiaries (or a trust for them) without gift tax and without the use of exemption. GRATs may be a good strategy to employ when one has used all of the available gift and estate tax exemption amounts. Note that if the grantor dies before the end of the term, a portion or all of the GRAT's assets will be included in the grantor's estate.

For more information about Grantor Retained Annuity Trusts, see Jennifer Lan, *Grantor Retained Annuity Trusts* (a publication of the UBS Advanced Planning Group). And Ann Bjerke, *Locking in the Upside of a Successful GRAT* (a publication of the UBS Advanced Planning Group).

12. Qualified Personal Residence Trusts (QPRTs)

For anyone interested in minimizing transfer taxes associated with the gift of a primary residence or vacation home, one option is a Qualified Personal Residence Trust (QPRT). QPRTs are specifically authorized by the internal revenue code.[42] A QPRT can be an effective way to leverage the transfer tax exemption. The grantor makes a gift of the residence to the QPRT and retains the right to occupy the home for a set period of time. The value of the taxable gift of the residence is reduced by the present value of the retained occupancy right. Similar to the GRAT, the IRS sets the monthly rate used to determine present value. Upon the expiration of the occupancy term, the full value of the residence (at its then value) passes to the beneficiaries or a trust for them (with a much lower amount of exemption used to make the initial gift). If the grantor wishes to continue to use the residence, the grantor can pay fair market value rent to the beneficiaries/trust. The payment of rent is not a taxable gift, and therefore, allows greater tax-free wealth transfer. In addition, funds can be used by the trust for property taxes, insurance and other expenses generally paid by the owner. Also, similar to a GRAT, if the grantor dies during the occupancy term, the full value of the residence will be included in the grantor's estate.

[40] Treas. Reg. § 26.2642-2(a)(2).
[41] IRC § 2702(a) and § 7520.
[42] IRC § 2702(a)(3)(A) and § 25.2702-5(a)(1).

About the Advanced Planning Group

The Advanced Planning Group consists of former practicing estate planning and tax attorneys with extensive private practice experience and diverse areas of specialization, including estate planning strategies, income and transfer tax planning, family office structuring, business succession planning, charitable planning and family governance.

The Advanced Planning Group provides comprehensive planning and sophisticated advice and education to ultra high net worth (UHNW) clients of the firm. The Advanced Planning Group also serves as a think tank for the firm, providing thought leadership and creating a robust intellectual capital library on estate planning, tax and related topics of interest to UHNW families.

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