



## Legislative and Regulatory Update

Barbara Benton, CAE

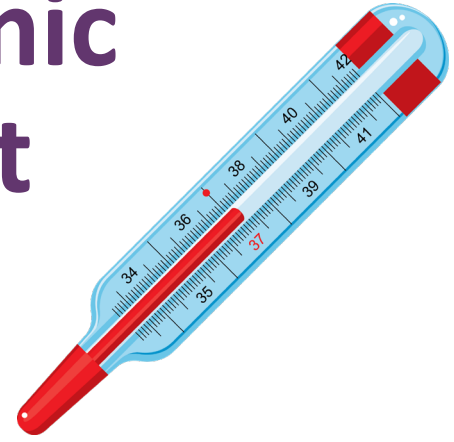
Vice President, Government Relations

# Hot Legislative/Regulatory Issues



State and Federal Issues impacting the CPA profession and broader business community.

# Ohio's Economic Environment



- OH unemployment rate 4.0%. National: 3.7% (July 2019)
- Leading national economic indicators remain strong, capital spending plans are steady. Despite recent downshift, overall index remains historically high consistent with uninterrupted growth.
- FY19 State budget: surplus of \$651.1 million over tax revenue estimates. FY19 tax revenue exceeded that of FY18 by over \$1 billion.
- Opioid use still a challenge.
- Unemployment compensation fund STILL not in good position for next recession.
  - Current balance: \$1.35B. Minimum safe level: \$2.5B to 3B

# Impact of OH Population Shifts

## Aging nation

Where people age 60 and up outnumber those under 20

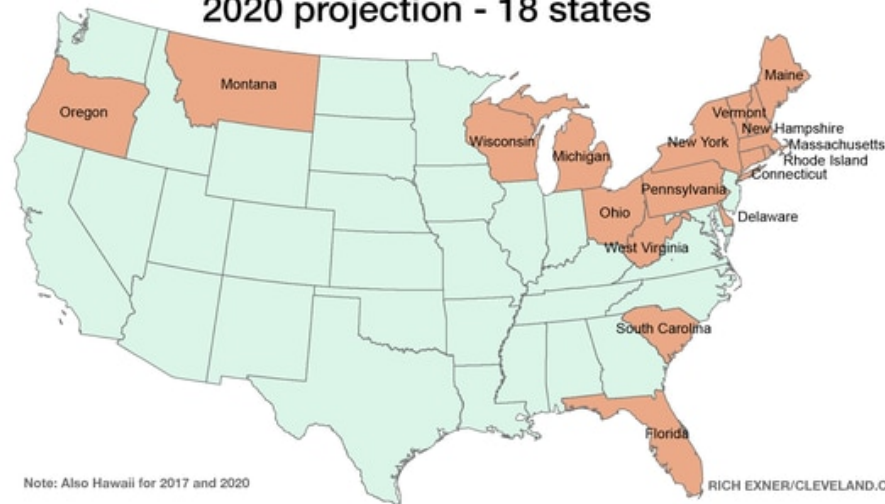
2010 - No states



2017 - 11 states



2020 projection - 18 states



Note: Also Hawaii for 2017 and 2020

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# Impact of OH Population Shifts

## Aging Ohio

Where people age 60 and up outnumber those under 20

2000 census



2010 census



2017 estimate



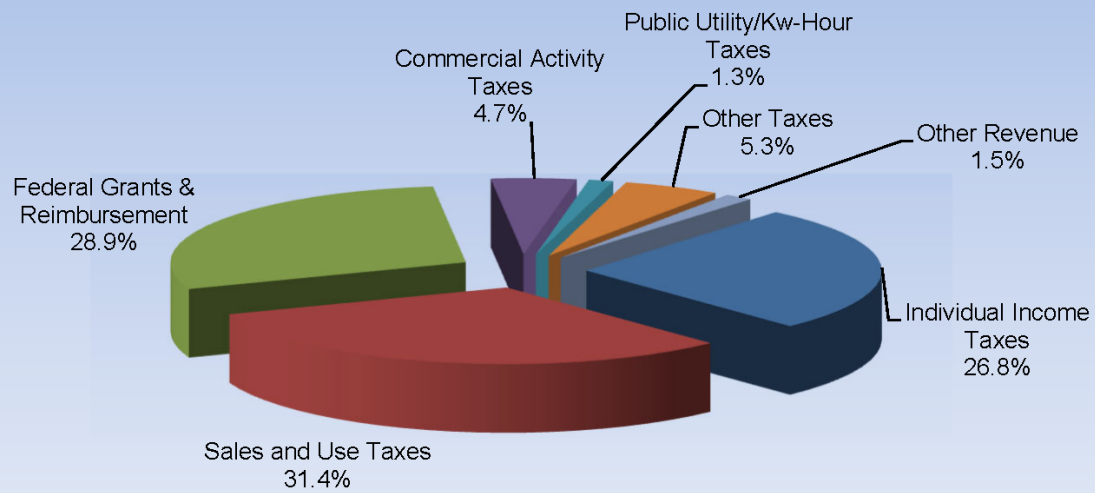
2020 projection



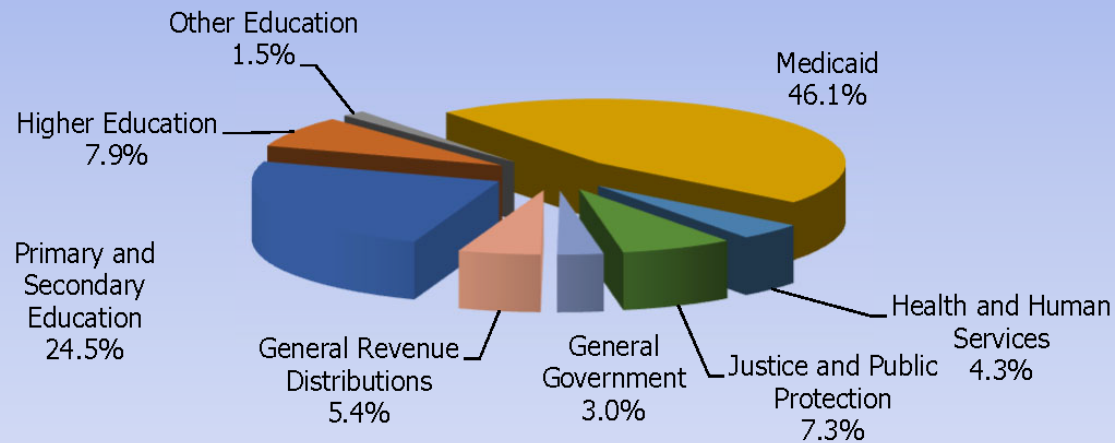
# Gas Tax Increase (Effective July 1)



FY2020 - 2021 Operating Budget  
Estimated GRF Revenues



## FY2020 - 2021 Operating Budget Total General Revenue Fund Appropriations





# Tax Expenditure Review Committee

General Assembly	Tax Expenditures
133rd General Assembly	<ul style="list-style-type: none"><li>• Remainder of Ohio's Sales and Use Tax Expenditures (Tax Expenditure Report codes 1.16 through 1.56)</li></ul>
134th General Assembly	<ul style="list-style-type: none"><li>• Ohio's Individual Income Tax Expenditures (Tax Expenditure codes 2.01 through 2.37)</li></ul>
135th General Assembly	<ul style="list-style-type: none"><li>• Ohio's Financial Institutions Tax Expenditures (Tax Expenditure Report codes 3.01 through 3.03)</li><li>• Ohio's Commercial Activity Tax Expenditures (Tax Expenditure Report codes 4.01 through 4.20)</li><li>• Ohio's Public Utility Excise Tax Expenditures (Tax Expenditure Report codes 5.01 through 5.03)</li><li>• Ohio's Kilowatt Hour Tax Expenditure (Tax Expenditure Report code 6.01)</li><li>• Ohio's Insurance Premium Tax Expenditures (Tax Expenditure Report codes 7.01 through 7.03)</li><li>• Ohio's Cigarette and Other Tobacco Products Tax Expenditures (Tax Expenditure Report codes 8.01 through 8.02)</li><li>• Ohio's Alcoholic Beverage Tax Expenditures (Tax Expenditure Report codes 9.01 through 9.04)</li></ul>

# Ohio Biennial Budget Bill – HB 166



State's budget for July 1, 2019 – June 30, 2021

Fiscal Years 2020-2021

# DeWine & Husted priorities

## Jobs & the economy:

- Establish regional job-training partnerships with local businesses, education providers and community leaders
- Pressure the US government to remove strings attached to federal job training dollars
- Suspend the implementation of any regulation that negatively impacts job creation unless it is necessary for health and safety purposes

## Tax incentives:

- Establish Opportunity Zones for economically distressed communities
- Encourage businesses to expose students to work opportunities

## Innovation & investment:

- Design a match-making application that connects job seekers to businesses that are hiring
- Improve procurement
- Build a first of its kind public/private partnership to improve the way public services are delivered

# Key results for local governments

- **Indigent Defense:** Additional \$60M in FY 2020, \$95M in FY2021 in reimbursement to counties
- **Sales tax rate increments:** Counties, transit authorities can charge sales tax rates in increments of 0.05% (plus current 0.10% and 0.25%). Effective 1/1/19
- **H2O Fund:** Established to fund water quality improvement efforts across Ohio - \$172M over two years
- **Family & children services funding for:**
  - Staffing to recruit, engage & support foster parents
  - Adult protective services
  - Kinship care
  - Aid to prevent custody relinquishment of multi-system youth

# Key results for local governments

- **Increase to the LGF:** up to 1.68% of GRF revenues - \$5.2M more each year.
- **Net Profit Estimated Payments:** municipalities erroneously receiving this distribution from State must refund that amount to state. Failure to reimburse state will result in offset of other municipal funds.
- **TIFS:** LGs may extend TIFS for additional 30 years for large, high-impact development developments
- **Motion Picture Tax Credit:** continues for motion picture AND live productions – but only for OH companies

# Business Income Deduction Proposals

- House Proposal
  - Deduct 100% up to \$100K
  - Eliminate the 3% flat tax
  - Retroactive effective date back to TY 2019
  - 6.6% cut to all income tax brackets
- Senate Proposal
  - Deduct 100% up to \$250K
  - Eliminate the 3% flat tax
  - Prospective effective date of TY 2020
  - 8% cut to all income tax brackets (4% TY19, 4% TY20)

# Final BID Language

- Final H.B. 166 Version signed by Governor
  - Deduct 100% up to \$250K
  - Maintained the 3% flat tax
  - Prospective effective date of TY 2020
  - Excluded lawyers and lobbyists\*
- OSCPA advised legislators not to adopt language modeled on the federal 199A deduction
  - Would have negatively impacted a broad array of specified service trades and businesses (SSTBs) – including CPAs.

# 'Legal services' & 'Lobbying activity'

- R.C. 5747.01(B)(2) “Eligible business income” means business income excluding income from a trade or business that performs either or both of the following:
  - (a) Legal services provided by an active attorney admitted to the practice of law in this state or by an attorney registered for corporate counsel status under section 6 of rule VI of the Ohio supreme court rules for the government of the bar of Ohio;
  - (b) Executive agency lobbying activity, retirement system lobbying activity, or actively advocating by a person required to register with the joint legislative ethics committee under section 101.78, 101.92, or 121.62 of the Revised Code. Terms used in division (B)(2) of this section have the same meaning as in section 101.70, 101.92, or 121.60 of the Revised Code.



# Other BID Changes in H.B. 166

- Requires for purposes of school district income taxes that use “earned income” as the tax base, amounts subject to the BID must be added back when computing a taxpayer’s taxable income.
- Modifies eligibility for several means-tested income tax credits so high-income taxpayers with little nonbusiness income are not eligible.
  - \$20 personal exemption credit,
  - Personal exemption deduction,
  - Joint filing credit,
  - Credit based on the federal dependent care credit,
  - Retirement income credit,
  - Credit for persons aged 65 years or older, and
  - Real property tax homestead exemption

# TY 2019 Tax Tables – 4% tax cut, 5 brackets

Ohio Taxable Income	TY 2019 Marginal Rate
> \$21,750 < \$43,450	\$310.47 plus 2.850% > \$21,750
> \$43,450 < \$86,900	\$928.92 plus 3.326% > \$43,450
> \$86,900 < \$108,700	\$2,374.07 plus 3.802% > \$86,900
> \$108,700 < \$217,400	\$3,202.91 plus 4.413% > \$108,700
> \$217,400	\$7,999.84 plus 4.797% > \$217,400

# OSCPA Ohio Tax Reform Task Force

- 19 OSCPAs tax experts from around Ohio
- Year-long process – looked at major Ohio taxes
- Report available at [http://www.ohiocpa.com/docs/default-source/advocacy/ohio-tax-task-force-report\\_final\\_8-3-2016b.pdf?sfvrsn=0](http://www.ohiocpa.com/docs/default-source/advocacy/ohio-tax-task-force-report_final_8-3-2016b.pdf?sfvrsn=0)
- Series of recommendations in 2016:
  - Simplify and make more efficient
  - Look at tax expenditures
  - Flat tax vs. fewer brackets
  - Concerns about sales tax competition issues
  - CAT – need to keep base broad/rate low
  - Centralized collection of municipal net profits



## Other State Issues

- Enacted

# Centralized Partnership Audit Regime

- State Conformity to the IRS Centralized Partnership Audit Regime
  - Enacted by Congress in the Bipartisan Budget Act of 2015
  - Multistate Tax Commission (MTC) model statute
  - Centralizes IRS' ability to audit, assess, and collect any determined underpayment directly from a partnership at the ***entity level***.
  - The IRS could previously audit the partnership directly, but could only assess and collect from each ***individual partner***.
  - The new federal system under the Internal Revenue Code (IRC) took effect Jan. 1, 2018, with IRS audits likely to start in late 2020.
  - **NEW OHIO LAW:** applies to changes in liability arising from federal adjustments with a final determination date of October 1, 2019, or thereafter.

# Excise Tax on Vapor Products

- 10 cents per mL of vapor product, effective October 1, 2019
  - Paid by distributors
  - Includes any liquid solution or other substance that contains nicotine and is depleted as it is used in an electronic smoking product
- Beginning in July 2020, vapor product importers and manufacturers are required to register with the Tax Commissioner and provide monthly reports listing sales of vapor products
- [https://www.tax.ohio.gov/Portals/0/excise/information\\_releases/XT2019-02.pdf](https://www.tax.ohio.gov/Portals/0/excise/information_releases/XT2019-02.pdf)

# Nexus Standard: Remote Sellers

- *South Dakota v. Wayfair*: no physical presence
- Sales/use tax due if business meets one or both in current or previous calendar year:
  - Gross sales into Ohio exceeding \$100,000; or
  - 200 or more separate transactions into Ohio.
- More revenue to counties: est. \$51M
- Effective August 1, 2019 for Out-of-State Sellers
- Effective September 1, 2019 for Marketplace Facilitators
  - <https://www.tax.ohio.gov/Portals/0/OhioTaxAlert/ArchivedAlerts/SubstantialNexusAndMarketplaceFacilitatorChanges07232019.pdf>

# Other enacted H.B. 166 issues

- Regulatory Reform reduction (2 rules out for every new one): part of S.B. 1
- H&R Block language, PTIN requirement on state returns; CPAs exempt from penalties
- GONE: Political campaign contributions tax credit and FIT credit for PTEs beginning TY 2019
- Two sales/use tax exemptions GONE:
  - Investment metal bullion and coins (eff. 10/1/19)
  - Professional racing team purchases (eff. 10/1/19)



# OSCPA: Protecting your CPA Credential

## 01.

New Ohio  
Occupational  
Licensing law – SB  
255 (132<sup>nd</sup> GA)

## 02.

Goal: Eliminate  
licensure barriers to  
do a job

## 03.

Every 6 years: state  
licensing boards  
**ELIMINATED** unless  
OGA votes to  
continue

## 04.

OSCPA successfully  
fought to defend CPA  
Certificate

- Is the **ONLY** profession with a safe harbor
- What was at risk: interstate mobility, your ability to relocate

# OSCPA: Protecting your CPA Credential

## 01.

Safe Harbor: CPAs will continue to be licensed and laws/rules impacting interstate practice are protected

## 02.

The next threat? Model legislation allowing ANYONE to provide CPA services.

# Protecting your CPA Credential: working with medical marijuana businesses

## PROBLEM

Marijuana is still an  
illegal drug under federal  
law

## SOLUTION

R.C. 4701.16(D) amended  
to specify that CPAs can  
provide professional  
services without putting  
CPA license – and your  
future – at risk.

ABO: will not discipline CPAs...but no guarantees if feds enforce law



## Other State Issues

- Still Pending

# Ohio Income Tax: PTE & Personal

- Marriage Tax Penalty: HB 333 (132<sup>nd</sup> GA)
  - Permits married taxpayers filing jointly to claim an enhanced joint filer credit - effectively allows couple to reduce tax liability to no more than owed if each filed separately.

# ODT Credit Carryforwards

Beginning with tax year 2017, overpayments for composite, trust and non-resident PTE returns will be refunded to the taxpayer or qualifying entity

Per ODT: Credit balances will no longer be carried forward to the next taxable period for IT 1140, 4708, and 1041

OSCPA working to again allow for credit carryforwards

# SB 11: Diversity and Inclusion

- Modernizes Ohio anti-discrimination laws by including gender preference and sexual orientation under list of protected civil rights classes
- Goal: to help Ohio compete for top talent and enhance economic development efforts in our state
- Now law in 21 other states, over 20 Ohio cities

# Ohio's Unemployment Fund and the Feds

Ohio's Fund: has not been solvent since 1974

The federal government has a proposal that would:

- Trigger a higher tax rate on employers immediately if state's solvency falls below a certain level.
- As written: states whose funds can't pay for at least 6 months must get there through increases in the federal unemployment tax
- Even without a recession, OH's fund will run out again by 2025 per ODJFS
  - Only TX, MASS, CA, U.S. Virgin Islands are less solvent than Ohio
- Two temporary Ohio provisions are set to expire at the end of 2019
  - The taxable wage base was increased from \$9,000 to \$9,500 for two years: 2018-2019.
  - The benefit levels were frozen for two years: 2018-2019.





## Municipal Tax Issues

# House Bill 5 – (130<sup>th</sup> GA)

- House Bill 5 was effective 1/1/16 – focus on uniformity of definitions, due dates, penalties, interest etc.
- 5-year NOL starts phasing in 1/1/17 at 50% for five years
  - 50% of losses first incurred in tax years beginning in or after 2017 may be used to offset income in TYs 2018 – 2022. In or after TY 2023, 100% of NOL carryforwards may be used.
    - <https://www.tax.ohio.gov/Portals/0/Muni-Net-Profit/information-releases/MNP%202018-04%20Net%20Operating%20Losses.pdf>
  - NOL Study Committee deadline extended for submissions of municipal tax data to ODT to Aug. 31 2021; report now due by May 1, 2022
- Occasional entrant: 12 to 20 days, not retroactive
  - Preponderance of a day
  - \$500,000 small business exemption for tracking, withholding to multiple cities

# Supplemental Executive Retirement Plans (SERPs)

- H.B. 166 defines “pension” and “retirement benefit plan” in R.C. 718.01(Y) and (Z)
- Essentially exempts these plans from municipal income tax
- Effective for taxable years beginning in or after 2020

# Muni Tax Reform Lawsuit

160 cities suing state to overturn HB 5, centralized filing & throwback rule provisions (HB 49)

- Citing “Home Rule” and single subject violations
- Feb. 21, 2018: Franklin County Common Pleas Court judge denied cities’ injunction and ruled constitutional
- Jan. 29, 2019: 10<sup>th</sup> District Court of Appeals ruled in favor of the state 2-1
- April 4, 2019: 10<sup>th</sup> District Court of Appeals rejected cities’ motion for reconsideration 3-0
- Aug. 6, 2019: Ohio Supreme Court granted jurisdiction over the Home Rule issue

# OHIO CENTRALIZED COLLECTION FILING DEADLINES FOR BUSINESSES

<b>Month of FY End</b>	<b>Deadline to opt in/ notify cities</b>	<b>First Quarter/ Annual Return</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>
December	March 1	April 15	June 15	September 15	December 15
January	April 1	May 15	July 15	October 15	January 15
February	May 1	June 15	August 15	November 15	February 15
March	June 1	July 15	September 15	December 15	March 15
April	July 1	August 15	October 15	January 15	April 15
May	August 1	September 15	November 15	February 15	May 15
June	September 1	October 15	December 15	March 15	June 15
July	October 1	November 15	January 15	April 15	July 15
August	November 1	December 15	February 15	May 15	August 15
September	December 1	January 15	March 15	June 15	September 15
October	January 1	February 15	April 15	July 15	October 15
November	February 1	March 15	May 15	August 15	November 15

LEARN MORE AT [WWW.TAX.OHIO.GOV/MUNICIPALTAX.ASPX](http://WWW.TAX.OHIO.GOV/MUNICIPALTAX.ASPX)



# Centralized Collection of Municipal Net Profits Tax

## Modernized e-File (MeF) Approved Software

Company Name	Product Name	Form Type	Status
CCH/Wolters Kluwer	Axcess	MNP 10, MNP ES	Approved
CCH/Wolters Kluwer	Global FX	MNP 10, MNP ES	Approved
CCH/Wolters Kluwer	ProSystem FX	MNP 10, MNP ES	Approved
Corptax, Inc.	Corptax	MNP 10, MNP ES	Approved
Drake Software	Drake Tax	MNP 10, MNP ES	Approved
Tax Technologies, Inc	Tax Series	MNP 10, MNP ES	Approved
Thomson Reuters	GoSystems/OneSource	MNP 10	Approved
Thomson Reuters	UltraTax CS	MNP 10, MNP ES	Approved

# Centralized Filing: MeF option for annual return

- If you don't use those: ODT has published ASCII/XML file layouts for 2018 municipal net profit tax return and declaration of estimated payments for files uploaded through the Ohio Business Gateway (OBG). The layouts and additional information can be found [on the Department's website](#).



## Accountancy Board of Ohio (ABO) Issues



# Accountancy Board Issues

## Possible Rule Changes

- Impact on A&A hours if conduct audits. Focus:
  - Government audits
  - Broker/Dealer audits
  - ERISA audits
- Make it easier for OH candidates to sit for exam
  - Can sit up to 90 days prior to securing 150 hours

# ABO Deadlines

Deadlines:

**Aug. 31:** Tax Consulting CPA Firms renew. Late fee \$150; goes to \$333.50 Dec. 1

**Oct 31:** Attest firms must renew - \$33.50

NEW: paper applications for firm renewal no longer accepted

NEW: must attach peer review results with firm renewal! Plan ahead

Late fees: 1-4 \$150; 5-9 \$360; 10+ CPAs at firm: \$900. Up from there as of Feb. 1

For attest firms switching to tax firm status: must complete required ABO form PRIOR to Oct. 31

Questions? Call Kelly Kelly at ABO: 614—466-4135

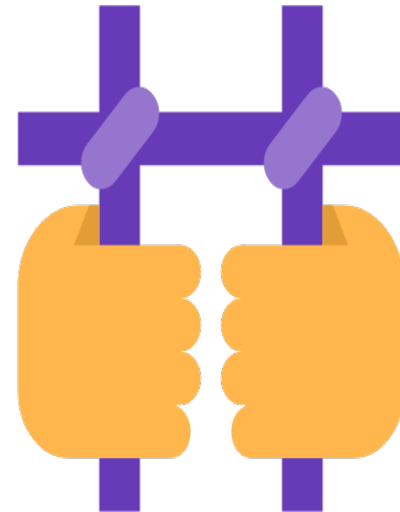
**Dec. 31:** CPAs in Group 3 must renew

- NEW: 3-year Individual license fee \$180/active permit; \$85 inactive registration – plus \$3.50
- Will also need to state how many CPE hours per year you earned



# ABO: How to Stay out of Trouble

- Make sure email address on file is CURRENT
- NEVER ignore envelopes from ABO
- Make sure you DO have 120 hours of CPE before “checking the box” on renewal form
- Remember that OSCP and ABO are different
- Start your peer review plenty early to meet firm renewal deadline
- If you find yourself in a pickle, call the ABO
  - Not sure? Call OSCP for guidance



# Federal Issues





# Federal Mobile Workforce

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- Mobile Workforce State Income Tax Simplification Act – for interstate workers
  - S. 604 – pending
  - H.R. 1393
- 30 or fewer days in another state? Report \$ as if earned in home state
- Uphill battle to enact



THE  
**OHIO SOCIETY**  
OF **CPAs**

ADVANCING THE STATE OF BUSINESS

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