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TAX INCENTIVES AND THE MINING SECTOR: The case of the Philippines

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Outline

- ❑ Overview of the mining sector in the Philippines
- ❑ Tax incentives of the mining sector
- ❑ Rationale of limiting tax incentives granted to the mining sector
- ❑ Proposed mining fiscal regime
- ❑ Concluding remarks


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Overview of the mining sector in the Philippines

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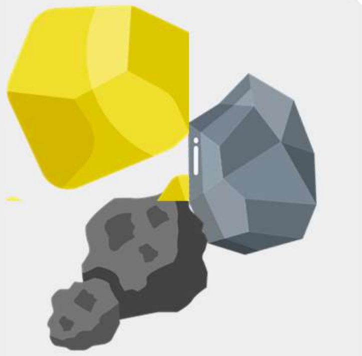
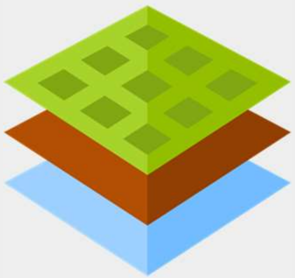
The Philippines is known for its abundant but largely untapped mineral resources.



It is **geographically endowed** with abundant mineral resources such as **copper, gold, nickel and chromite.**



9 million hectares is identified as having **high mineral potential** but only **763,377.86 hectares or 2.54%** is covered by mining tenements.

Estimated value produced in 2021
Gold: P72.21 billion
Nickel and nickel products: P89.95 billion
Copper: P17.29 billion

Source: Mines and Geosciences Bureau (MGB)

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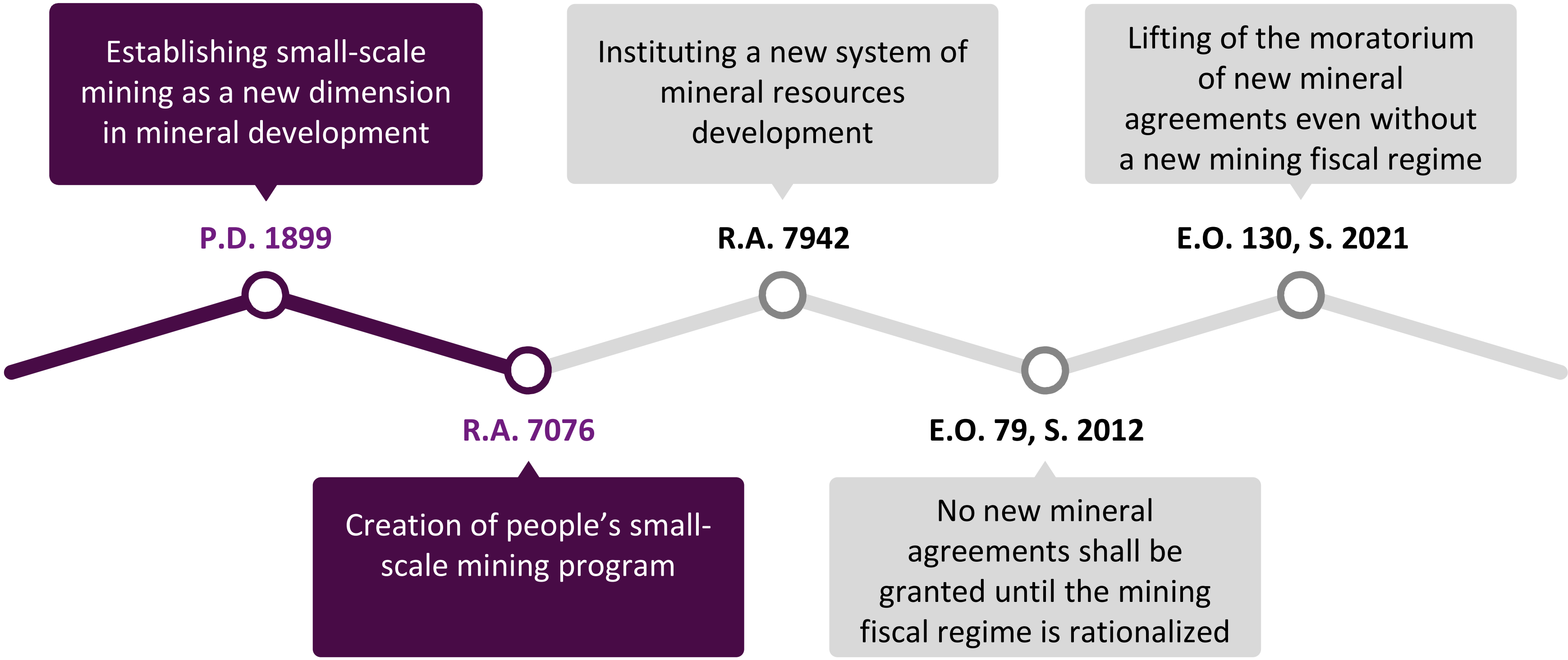
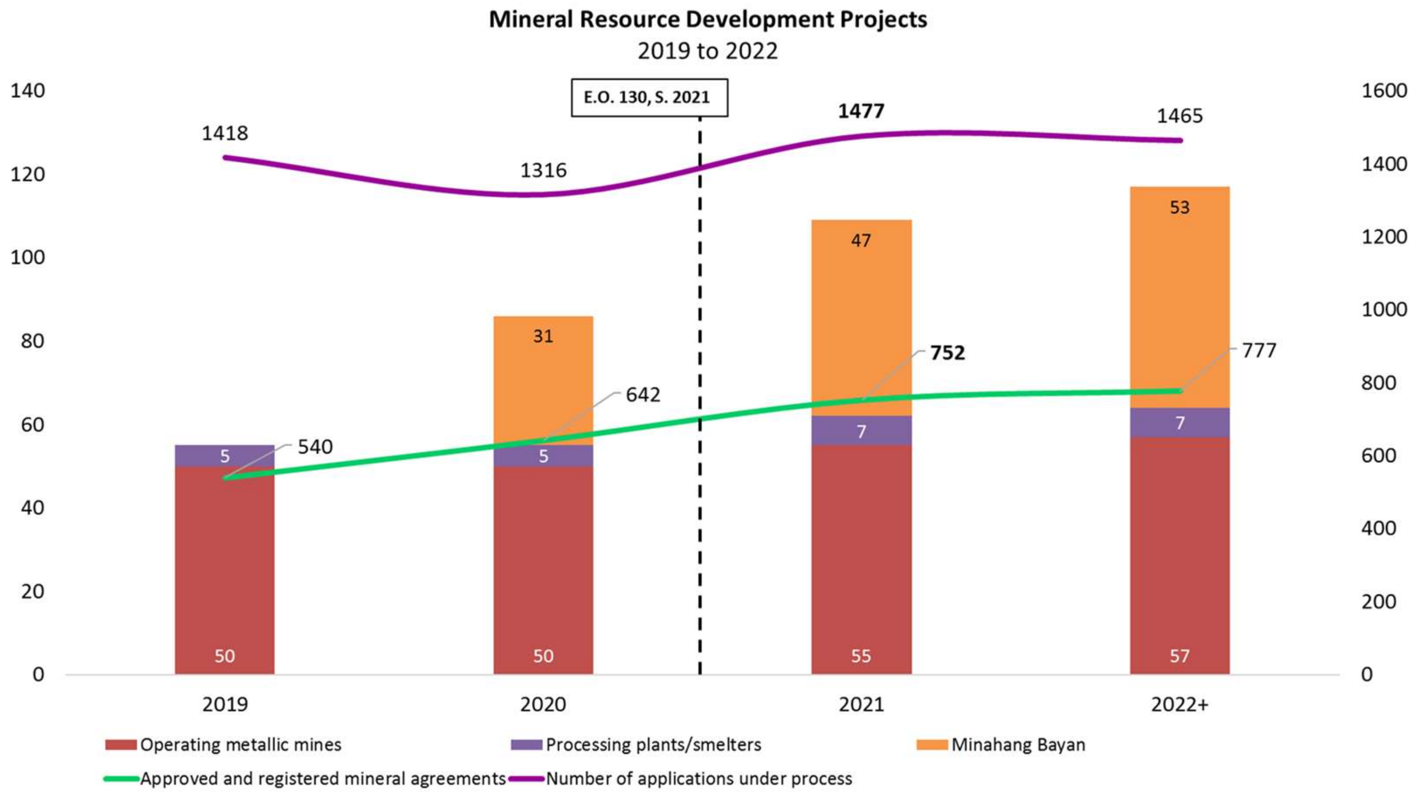
In 2012, Executive Order No. 79 was issued as part of the government's effort to institutionalize and implement reforms in the mining industry.



The lifting of the moratorium in 2021 on new mining agreements paved the way for an increase in application both approved and under process.



Source: MGB

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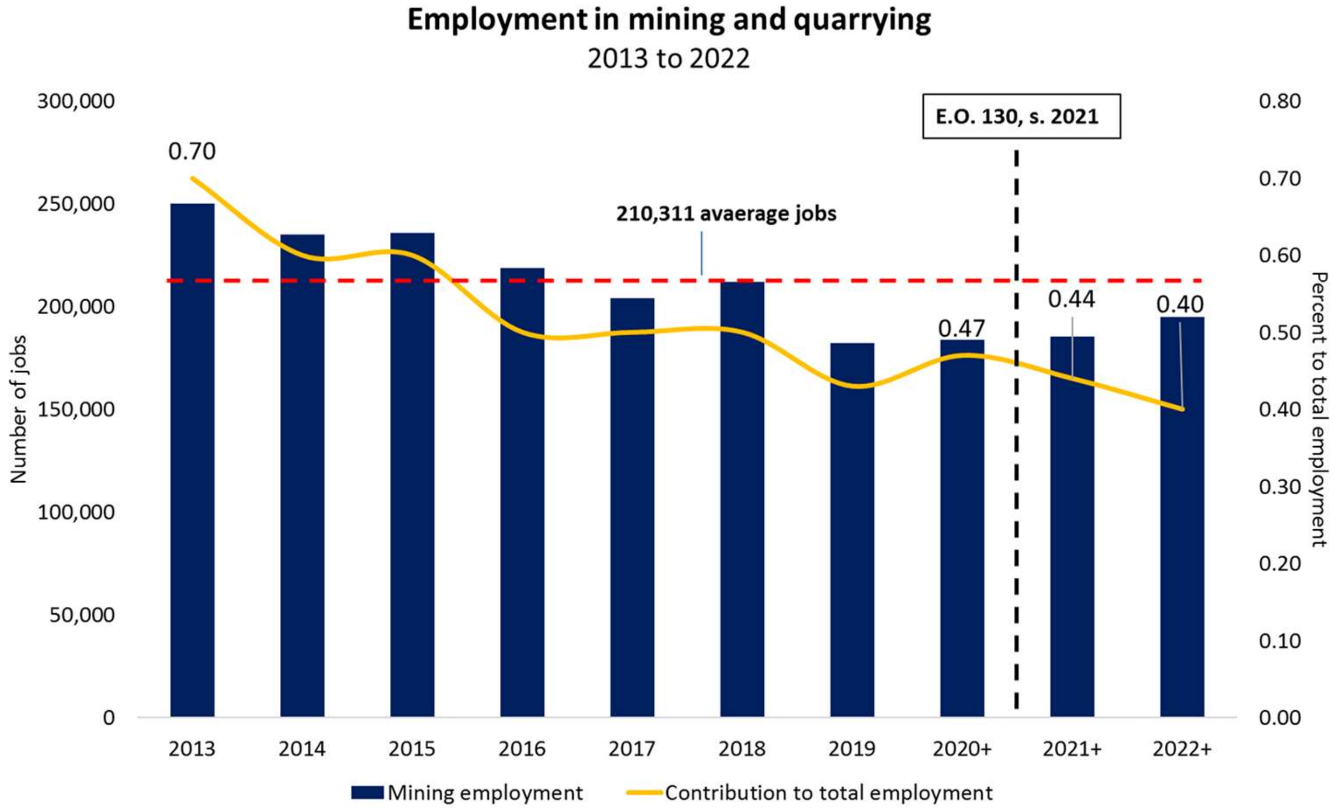
Over the last 10 years, the industry has generated an average of 210,311 jobs or 0.51 percent of the total employment every year.



Source: MGB

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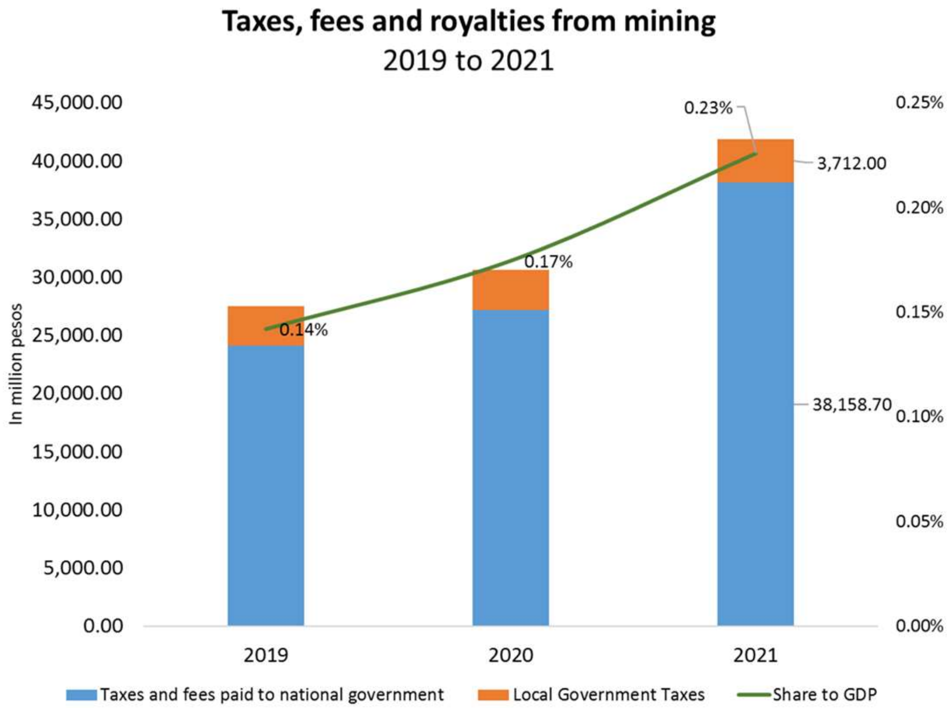
In 2021, the government collected around P41.8 billion or USD761.7 million in taxes, fees, and royalties from the mining industry or 0.23 percent share to GDP.



Note:

1. Data from Mines and Geosciences Bureau (MGB) mining industry statistics as of December 2022.
2. No available data for 2022.
3. Foreign exchange rate used from Bangko Sentral ng Pilipinas, 09 February 2023

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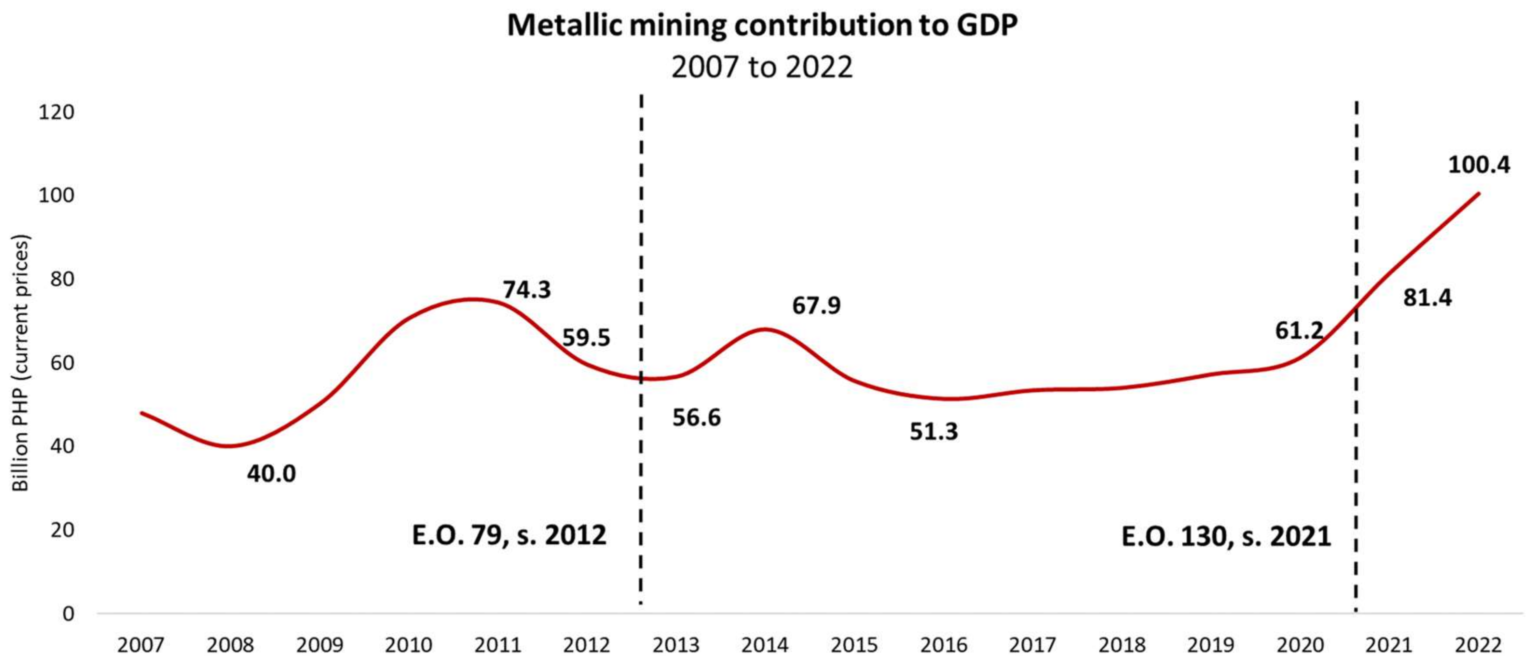
In 2021, the metallic mining industry contributed around P100.4 billion or USD1.83 billion or 0.46 percent to GDP in 2022.



Source: Philippine Statistics Authority (PSA)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Tax incentives of the mining sector

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Since 2012, the incentive being provided to the mining industry has been limited to capital equipment incentives only.

As part of the IPP, mining activities may qualify for incentives but limited to capital equipment incentives

This covers the exploration and development of mineral resources, mining/quarrying and processing of metallic and non-metallic minerals

The following may qualify for registration with incentives limited to **capital equipment**:

Exploration of mineral resources

Processing of metallic and non-metallic minerals to produce semi-processed mineral products

Source: FIRB

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Rationale of limiting incentives granted to the mining sector

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Government should be cautious in providing incentives to ensure minimal costs to government revenues.

Why we should **limit** incentives:

Resources are non-renewable and finite

Protect government revenues

"The use of tax incentives may make government revenues more vulnerable to base erosion and profit shifting practices than if the general tax treatment applied."

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The exclusion of income tax holiday (ITH) as part of mining incentives basically adheres to the efficient and effectiveness framework of tax incentives system.

Resource rents[1] associated with mineral deposits in the ground, and not tax incentives, that attract investment into the mining sector

The **income tax holiday** effectively incentivizes the mining industry to shift profits to a tax-free period exposing government revenues to risks

The **economic contribution** of the Philippine mining industry to the economy **has been relatively low**

[1]The surplus value after all costs and normal returns have been accounted for

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Bulk of the incentives granted are the ITH of mining companies with remaining approved years of ITH prior to 2012 abolition.

Year	RBE	IPA	Type of incentives, in USD millions			Total
			ITH	Import duties	Import VAT	
2019	Company A	BOI	0.63	-	-	0.63
2018	Company B	BOI	4.54	-	-	4.54
2018	Company C	PEZA	-	0.02	0.42	0.44
2018	Company D	PEZA	-	0.00	0.01	0.01
2018	Company E	CDC	-	-	0.00	0.00
Total			**5.17**	**0.02**	**0.43**	**5.62**
% to total			92.02	0.29	7.69	**100**

Note: After 2012, the ITH was abolished as part of the incentives offer for mining companies who are applying or renewing their permits. Source: TIMTA report

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Proposed mining fiscal regime

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The DOF is considering to amend the current fiscal mining regime with the following objectives:

AS OWNER OF THE RESOURCES

The State is entitled to collect, taxes, royalties and other forms of impositions

UNIFORM FISCAL REGIME

The government seeks to impose a uniform fiscal regime regardless of the nature of the agreement or the size of the mining contractor

FAIRNESS

A rationalized and a single fiscal regime applicable to all mineral agreements promotes fairness

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One of the features of the proposed mining fiscal regime is the ring-fencing rule aimed to prevent revenue base erosion.

Implement a ring-fencing rule on a per project

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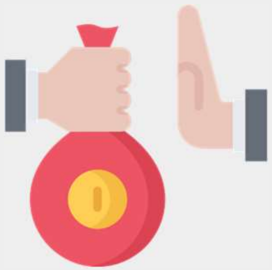
To prevent the consolidation of income and expenses of all mining projects by the same taxpayer, hence losses from other mining projects could not be deducted from more profitable projects.

Institute the Extractive Industries Council to institutionalize transparency, accountability and open data standards for the extractive industries



Anti-corruption

Monitoring and better tax administration

Inclusive multi-stakeholder governance

Targeted social and environmental programs for the extractives industry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Concluding remarks

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In summary, we reiterate the following points of granting mining tax incentives, which some have been done by the Philippine government since 2012.

- ❑ Governments should use a financial model to estimate the cost of incentives and their impacts on investment decisions.
- ❑ Avoid tax incentives that create parallel domestic fiscal regimes, which may lead to abusive transfer pricing.
- ❑ Abolish the most damaging incentives, notably tax holidays.
- ❑ Clearly define the investment expenses to which cost-based incentives apply.
- ❑ Carefully consider the BEPS risks of incentives that lower the rate of tax on outbound payments to foreign entities.
- ❑ Avoid tax incentives that create cliff edges.
- ❑ Tax incentives should be reviewed annually (or on a regular basis).
- ❑ Finally, invest in stronger government expertise and seek capacity-building opportunities.

Source: OECD

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THANK YOU.