

§8A1.2

- (F) “**Similar misconduct**” means prior conduct that is similar in nature to the conduct underlying the instant offense, without regard to whether or not such conduct violated the same statutory provision. For example, prior Medicare fraud would be misconduct similar to an instant offense involving another type of fraud.
- (G) “**Criminal adjudication**” means conviction by trial, plea of guilty (including an *Alford* plea), or plea of *nolo contendere*.
- (H) “**Pecuniary gain**” is derived from 18 U.S.C. § 3571(d) and means the additional before-tax profit to the defendant resulting from the relevant conduct of the offense. Gain can result from either additional revenue or cost savings. For example, an offense involving odometer tampering can produce additional revenue. In such a case, the pecuniary gain is the additional revenue received because the automobiles appeared to have less mileage, *i.e.*, the difference between the price received or expected for the automobiles with the apparent mileage and the fair market value of the automobiles with the actual mileage. An offense involving defense procurement fraud related to defective product testing can produce pecuniary gain resulting from cost savings. In such a case, the pecuniary gain is the amount saved because the product was not tested in the required manner.
- (I) “**Pecuniary loss**” is derived from 18 U.S.C. § 3571(d) and is equivalent to the term “loss” as used in Chapter Two (Offense Conduct). See §2B1.1 (Theft, Property Destruction, and Fraud) and the Commentary to §2B1.1, and definitions of “tax loss” in Chapter Two, Part T (Offenses Involving Taxation).
- (J) An individual was “**willfully ignorant of the offense**” if the individual did not investigate the possible occurrence of unlawful conduct despite knowledge of circumstances that would lead a reasonable person to investigate whether unlawful conduct had occurred.

<i>Historical Note</i>	Effective November 1, 1991 (amendment 422). Amended effective November 1, 1997 (amendment 546); November 1, 2001 (amendment 617); November 1, 2004 (amendment 673); November 1, 2010 (amendment 747); November 1, 2011 (amendment 758); November 1, 2023 (amendment 824); November 1, 2024 (amendment 827); November 1, 2025 (amendment 836).
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