

- (C) The limitation in subdivision (B) shall not apply in any case in which (i) the defendant is convicted under 18 U.S.C. § 2339 or § 2339A; or (ii) the conduct involved harboring a person who committed any offense listed in 18 U.S.C. § 2339 or § 2339A or who committed any offense involving or intending to promote a federal crime of terrorism, as defined in 18 U.S.C. § 2332b(g)(5). In such a case, the base offense level under this guideline shall be not more than level **30**, as provided in subdivision (A).

#### Commentary

**Statutory Provisions:** 18 U.S.C. §§ 3, 757, 1071, 1072, 2284, 2339, 2339A, 2339C(c)(2)(A), (c)(2)(B) (but only with respect to funds known or intended to have been provided or collected in violation of 18 U.S.C. § 2339C(a)(1)(A)).

**Application Notes:**

1. **Definition.**—For purposes of this guideline, “*underlying offense*” means the offense as to which the defendant is convicted of being an accessory, or in the case of a violation of 18 U.S.C. § 2339A, “*underlying offense*” means the offense the defendant is convicted of having materially supported after its commission (*i.e.*, in connection with the concealment of or an escape from that offense), or in the case of a violation of 18 U.S.C. § 2339C(c)(2)(A), “*underlying offense*” means the violation of 18 U.S.C. § 2339B with respect to which the material support or resources were concealed or disguised. Apply the base offense level plus any applicable specific offense characteristics that were known, or reasonably should have been known, by the defendant; *see* Application Note 9 of the Commentary to §1B1.3 (Relevant Conduct).
2. **Application of Mitigating Role Adjustment.**—The adjustment from §3B1.2 (Mitigating Role) normally would not apply because an adjustment for reduced culpability is incorporated in the base offense level.

*Historical Note*

Effective November 1, 1987. Amended effective November 1, 1989 (amendment 243); November 1, 1991 (amendment 380); November 1, 1993 (amendment 496); November 1, 2002 (amendment 637); November 1, 2003 (amendment 655); November 1, 2007 (amendment 700); November 1, 2015 (amendments 790 and 797).

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## 4. MISPRISION OF FELONY

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### §2X4.1. Misprision of Felony

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- (a) **Base Offense Level:** **9** levels lower than the offense level for the underlying offense, but in no event less than **4**, or more than **19**.

#### Commentary

**Statutory Provision:** 18 U.S.C. § 4.