

§2T1.9

Background: The offenses are misdemeanors. Under pre-guidelines practice, imprisonment was unusual.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 2004 (amendment 674); November 1, 2025 (amendment 836).
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§2T1.9. Conspiracy to Impede, Impair, Obstruct, or Defeat Tax

(a) Base Offense Level (Apply the greater):

- (1) Offense level determined from §2T1.1 or §2T1.4, as appropriate; or
- (2) **10**.

(b) Specific Offense Characteristics

If more than one applies, use the greater:

- (1) If the offense involved the planned or threatened use of violence to impede, impair, obstruct, or defeat the ascertainment, computation, assessment, or collection of revenue, increase by **4** levels.
- (2) If the conduct was intended to encourage persons other than or in addition to co-conspirators to violate the internal revenue laws or impede, impair, obstruct, or defeat the ascertainment, computation, assessment, or collection of revenue, increase by **2** levels. Do not, however, apply this adjustment if an adjustment from §2T1.4(b)(1) is applied.

Commentary

Statutory Provision: 18 U.S.C. § 371.

Application Notes:

1. This section applies to conspiracies to “defraud the United States by impeding, impairing, obstructing and defeating . . . the collection of revenue.” *United States v. Carruth*, 699 F.2d 1017, 1021 (9th Cir. 1983), *cert. denied*, 464 U.S. 1038 (1984). *See also United States v. Browning*, 723 F.2d 1544 (11th Cir. 1984); *United States v. Klein*, 247 F.2d 908, 915 (2d Cir. 1957), *cert. denied*, 355 U.S. 924 (1958). It does not apply to taxpayers, such as a husband and wife, who merely evade taxes jointly or file a fraudulent return.
2. The base offense level is the offense level (base offense level plus any applicable specific offense characteristics) from §2T1.1 or §2T1.4 (whichever guideline most closely addresses the harm that would have resulted had the conspirators succeeded in impeding, impairing, obstructing, or defeating the Internal Revenue Service) if that offense level is greater than 10. Otherwise, the base offense level is 10.