

3. Specific offense characteristics from §2T1.9(b) are to be applied to the base offense level determined under §2T1.9(a)(1) or (2).
4. Subsection (b)(2) provides an enhancement where the conduct was intended to encourage persons, other than the participants directly involved in the offense, to violate the tax laws (*e.g.*, an offense involving a “tax protest” group that encourages persons to violate the tax laws, or an offense involving the marketing of fraudulent tax shelters or schemes).

**Background:** This type of conspiracy generally involves substantial sums of money. It also typically is complex and may be far-reaching, making it quite difficult to evaluate the extent of the revenue loss caused. Additional specific offense characteristics are included because of the potential for these tax conspiracies to subvert the revenue system and the danger to law enforcement agents and the public.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1989 (amendments 233 and 234); November 1, 1993 (amendment 491).
------------------------	--

\* \* \* \* \*

## 2. ALCOHOL AND TOBACCO TAXES

### Introductory Commentary

This subpart deals with offenses contained in parts I–IV of subchapter J of chapter 51 of subtitle E of title 26, United States Code, chiefly 26 U.S.C. §§ 5601–5605, 5607, 5608, 5661, 5671, 5691, and 5762, where the essence of the conduct is tax evasion or a regulatory violation. No effort has been made to provide a section-by-section set of guidelines. Rather, the conduct is dealt with by dividing offenses into two broad categories: tax evasion offenses and regulatory offenses.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 2010 (amendment 746); November 1, 2016 (amendment 804); November 1, 2023 (amendment 824).
------------------------	---

---

### §2T2.1. Non-Payment of Taxes

---

- (a) Base Offense Level: Level from §2T4.1 (Tax Table) corresponding to the tax loss.

For purposes of this guideline, the “tax loss” is the amount of taxes that the taxpayer failed to pay or attempted not to pay.

### Commentary

**Statutory Provisions:** 15 U.S.C. § 377, 26 U.S.C. §§ 5601–5605, 5607, 5608, 5661, 5671, 5691, 5762, provided the conduct constitutes non-payment, evasion or attempted evasion of taxes. For additional statutory provision(s), *see* Appendix A (Statutory Index).