

- (d) Determine from Part E (Special Assessments, Forfeitures, and Costs) the sentencing requirements relating to special assessments, forfeitures, and costs.

Commentary

Application Notes:

1. Determinations under this chapter are to be based upon the facts and information specified in the applicable guideline. Determinations that reference other chapters are to be made under the standards applicable to determinations under those chapters.
2. The definitions in the Commentary to §1B1.1 (Application Instructions) and the guidelines and commentary in §§1B1.2 through 1B1.8 apply to determinations under this chapter unless otherwise specified. The adjustments in Chapter Three, Parts A (Victim-Related Adjustments), B (Role in the Offense), C (Obstruction and Related Adjustments), E (Acceptance of Responsibility), and F (Early Disposition Programs) do not apply. The provisions of Chapter Six (Sentencing Procedures, Plea Agreements, and Crime Victims' Rights) apply to proceedings in which the defendant is an organization. Guidelines and policy statements not referenced in this chapter, directly or indirectly, do not apply when the defendant is an organization; *e.g.*, the policy statements in Chapter Seven (Violations of Probation and Supervised Release) do not apply to organizations.
3. The following are definitions of terms used frequently in this chapter:
 - (A) “**Offense**” means the offense of conviction and all relevant conduct under §1B1.3 (Relevant Conduct) unless a different meaning is specified or is otherwise clear from the context. The term “**instant**” is used in connection with “offense,” “federal offense,” or “offense of conviction,” as the case may be, to distinguish the violation for which the defendant is being sentenced from a prior or subsequent offense, or from an offense before another court (*e.g.*, an offense before a state court involving the same underlying conduct).
 - (B) “**High-level personnel of the organization**” means individuals who have substantial control over the organization or who have a substantial role in the making of policy within the organization. The term includes: a director; an executive officer; an individual in charge of a major business or functional unit of the organization, such as sales, administration, or finance; and an individual with a substantial ownership interest. “**High-level personnel of a unit of the organization**” is defined in the Commentary to §8C2.5 (Culpability Score).
 - (C) “**Substantial authority personnel**” means individuals who within the scope of their authority exercise a substantial measure of discretion in acting on behalf of an organization. The term includes high-level personnel of the organization, individuals who exercise substantial supervisory authority (*e.g.*, a plant manager, a sales manager), and any other individuals who, although not a part of an organization’s management, nevertheless exercise substantial discretion when acting within the scope of their authority (*e.g.*, an individual with authority in an organization to negotiate or set price levels or an individual authorized to negotiate or approve significant contracts). Whether an individual falls within this category must be determined on a case-by-case basis.
 - (D) “**Agent**” means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.
 - (E) An individual “**condoned**” an offense if the individual knew of the offense and did not take reasonable steps to prevent or terminate the offense.