

§2T3.1. Evading Import Duties or Restrictions (Smuggling); Receiving or Trafficking in Smuggled Property

(a) Base Offense Level:

- (1) The level from §2T4.1 (Tax Table) corresponding to the tax loss, if the tax loss exceeded \$1,500; or
- (2) **5**, if the tax loss exceeded \$200 but did not exceed \$1,500; or
- (3) **4**, if the tax loss did not exceed \$200.

For purposes of this guideline, the “tax loss” is the amount of the duty.

(b) Specific Offense Characteristic

- (1) If the offense involved sophisticated means, increase by **2** levels. If the resulting offense level is less than level **12**, increase to level **12**.

(c) Cross Reference

- (1) If the offense involves a contraband item covered by another offense guideline, apply that offense guideline if the resulting offense level is greater than that determined above.

Commentary

Statutory Provisions: 18 U.S.C. §§ 496, 541–545, 547, 548, 550, 551, 1915; 19 U.S.C. §§ 283, 1436, 1464, 1465, 1586(e), 1708(b), 3907. For additional statutory provision(s), *see* Appendix A (Statutory Index).

Application Notes:

1. A sentence at or near the minimum of the guideline range typically would be appropriate for cases involving tourists who bring in items for their own use. Such conduct generally poses a lesser threat to revenue collection.
2. **Sophisticated Means.**—For purposes of subsection (b)(1), “*sophisticated means*” means especially complex or especially intricate offense conduct pertaining to the execution or concealment of an offense. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore financial accounts ordinarily indicates sophisticated means.

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| <i>Historical Note</i> | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 235); November 1, 1991 (amendment 410); November 1, 1992 (amendment 453); November 1, 1998 (amendment 577); November 1, 2001 (amendment 617); November 1, 2006 (amendment 685); November 1, 2015 (amendment 791); November 1, 2025 (amendment 836). |
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