

## **§2X3.1**

### **2. AIDING AND ABETTING**

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#### **§2X2.1. Aiding and Abetting**

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The offense level is the same level as that for the underlying offense.

#### **Commentary**

**Statutory Provisions:** 18 U.S.C. §§ 2, 2284, 2339, 2339A, 2339C(a)(1)(A).

**Application Note:**

1. **Definition.**—For purposes of this guideline, “*underlying offense*” means the offense the defendant is convicted of aiding or abetting, or in the case of a violation of 18 U.S.C. § 2339A or § 2339C(a)(1)(A), “underlying offense” means the offense the defendant is convicted of having materially supported or provided or collected funds for, prior to or during its commission.

**Background:** A defendant convicted of aiding and abetting is punishable as a principal. 18 U.S.C. § 2. This section provides that aiding and abetting the commission of an offense has the same offense level as the underlying offense. An adjustment for a mitigating role (§3B1.2) may be applicable.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1990 (amendment 359); November 1, 2002 (amendment 637); November 1, 2003 (amendment 655); November 1, 2007 (amendment 700).
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### **3. ACCESSORY AFTER THE FACT**

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#### **§2X3.1. Accessory After the Fact**

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(a) Base Offense Level:

- (1) **6** levels lower than the offense level for the underlying offense, except as provided in subdivisions (2) and (3).
- (2) The base offense level under this guideline shall be not less than level **4**.
- (3) (A) The base offense level under this guideline shall be not more than level **30**, except as provided in subdivision (B).  
(B) In any case in which the conduct is limited to harboring a fugitive, other than a case described in subdivision (C), the base offense level under this guideline shall be not more than level **20**.