CHAPTER 41

Crimes Related to Taxation

- Promulgated on February 4, 2013. Effective on July 1, 2013.
- Amended on April 24, 2023. Effective on July 1, 2023.

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Tax Evasion (Punishment of Tax Evaders Act, Article 3, paragraph 1, Framework Act on Local Tax, Article 102, paragraph 1), Habitual Tax Evasion (Tax Evader Punishment Act, Article 3, paragraph 4, Basic Law on Local Tax, Article 102, paragraph 5), Tax Evasion under Act on the Aggravated Punishment of Specific Crimes (Act on the Aggravated Punishment of Specific Crimes, Article 8, paragraph 1), Violating Tax Invoice, etc. Issuing Duty (Tax Evader Punishment Act, Article 10, paragraph 3, paragraph 4), and Violating Tax Invoice, etc. Issuing Duty under Act on the Aggravated Punishment of Specific Crimes (Act on the Aggravated Punishment of Specific Crimes, Article 8-2, paragraph 1).

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 GENERAL TAX EVASION

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 300 million	– 8 mos.	6 mos. – 10 mos.	8 mos. – 1 yr. 2 mos.
2	300 million or more, less than 500 million	6 mos. – 1 yr.	8 mos. – 1 yr. 2 mos.	1 yr. – 2 yrs.
3	500 million or more	8 mos. – 1 yr. 6 mos.	1 yr. – 2 yrs.	1 yr. 6 mos. – 2 yrs. 6 mos.

(unit: KRW)

▷ For cases where the amount of tax evasion, etc. is 300 million or more but less than 500 million KRW, and is 30% or more of the filed or paid taxes · 30% or more of the determined and notified tax by the government, such case falls within Type 3.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Offender's minor participation under external pressure • Cases where profits gained from the offense are insignificant • The offense was committed primarily to postpone the payment of taxes • Tax evasion committed with Dolus Eventualis	• Planned and/or organized crime • Prolonged and repeated commission of the crime for more than two years • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity • Voluntary surrender to investigative authorities or internal whistle-blowing or filing an amended tax return or late-filed tax return • Payment of a substantial portion of the evaded tax	• Same-offense recidivism within the statutory recidivism period • Habitual offender • Offense committed through the act of coordinating, arranging, instigating by tax accountants, certified public accountants, or attorneys-at-law who conduct taxation business by proxy arrangements, or offense committed by a revenue officer

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Tax evasion committed due to financial distress • Portion of the tax evaded is collected or is expected to be collected • Minor participation	• Concealing property to avoid payment of the evaded tax • Continued offense notwithstanding the written warnings, financial audits, or actual survey by the tax service • Offense through collusion with the revenue officer • Obstructing tax investigation
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Genuine efforts to pay the evaded tax	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

2 TAX EVASION UNDER THE ACT ON THE AGGRAVATED PUNISHMENT OF SPECIFIC CRIMES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	500 million or more, but less than 1 billion	1 yr. 6 mos. – 2 yrs. 6 mos.	2 yrs. – 4 yrs.	3 yrs. – 5 yrs.
2	1 billion or more, but less than 20 billion	2 yrs. 6 mos. – 5 yrs.	4 yrs. – 6 yrs.	5 yrs. – 8 yrs.
3	20 billion or more	4 yrs. – 7 yrs.	5 yrs. – 9 yrs.	8 yrs. – 12 yrs.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Offender's minor participation under external pressure • Cases where profits gained from the offense are insignificant • The offense was committed primarily to postpone the payment of taxes • Tax evasion committed with Dolus Eventualis	• Planned and/or organized crime • Instigating the subordinate to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity • Voluntary surrender to investigative authorities or internal whistle-blowing, or filing an amended tax return or late-filed tax return • Payment of a substantial portion of the evaded tax	• Same-offense recidivism within the statutory recidivism period • Offense committed through the act of coordinating, arranging, instigating by tax accountants, certified public accountants, or attorney-at-law who conducts taxation business by proxy arrangements, or offense committed by a revenue officer
General Sentencing Factor	Conduct	• Tax evasion committed due to financial distress • Portion of the tax evaded is collected or is expected to be collected • Minor participation	• Concealing property to avoid payment of the evaded tax • Continued offense notwithstanding the written warnings, financial audits, or actual survey by the tax service • Offense through collusion with the revenue officer • Obstructing tax investigation
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Genuine efforts to pay the evaded tax	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

3 GENERAL OFFENSE OF GIVING OR RECEIVING FALSE TAX INVOICES, ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 3 billion	- 10 mos.	6 mos. - 1 yr.	10 mos. - 1 yr. 2 mos.
2	3 billion or more, but less than 5 billion	6 mos. - 1 yr.	8 mos. - 1 yr. 2 mos.	1 yr. - 2 yrs.
3	5 billion or more	8 mos. - 1 yr. 6 mos.	1 yr. - 2 yrs.	1 yr. 6 mos. - 2 yrs. 6 mos.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Offender's minor participation under external pressure • Cases where profits gained from the offense are insignificant • Absence of purpose to commit tax evasion or absence of the tax evasion	• Planned and/or organized crime • Prolonged and repeated commission of the crime for profit (Type 1) • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity • Voluntary surrender to investigative authorities or internal whistle-blowing	• Same-offense recidivism within the statutory recidivism period • Offense committed through the act of coordinating, arranging, instigating by tax accountants, certified public accountants, or attorneys-at-law who conducts taxation business by proxy arrangements, or offense committed by a revenue officer
General Sentencing Factor	Conduct	• Offender failed to spend or retain a substantial amount of profit from the crime • Minor participation	• Offense through collusion with the revenue officer • Obstructing tax investigation • Demanding false tax invoices from clients using their standing in business relations as an advantage, such as threatening to end business relations
	Offender /Etc.	• Sincere remorse • No prior criminal convictions	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

4 GIVING OR RECEIVING FALSE TAX INVOICES UNDER THE ACT ON THE AGGRAVATED PUNISHMENT OF SPECIFIC CRIMES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	3 billion or more, but less than 5 billion	6 mos. – 1 yr. 6 mos.	1 yr. – 2 yrs.	1 yr. 6 mos. – 3 yrs.
2	5 billion won or more, but less than 30 billion	1 yr. 6 mos. – 2 yrs. 6 mos.	2 yrs. – 4 yrs.	3 yrs. – 5 yrs.
3	30 billion or more	2 yrs. – 4 yrs.	3 yrs. – 6 yrs.	5 yrs. – 7 yrs.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Offender's minor participation under external pressure • Cases where profits gained from the offense are insignificant • Absence of purpose to commit tax evasion or absence of the tax evasion	• Planned and/or organized crime • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity • Voluntary surrender to investigative authorities or internal whistle-blowing	• Same-offense recidivism within the statutory recidivism period • Offense committed through the act of coordinating, arranging, instigating by tax accountants, certified public accountants, or attorneys-at-law who conducts taxation business by proxy arrangements, or offense committed by a revenue officer
General Sentencing Factor	Conduct	• Offender failed to spend or retain a substantial amount of profit from the crime • Minor participation	• Offense through collusion with the revenue officer • Obstructing tax investigation • Demanding false tax invoices from clients using their standing in business relations as an advantage, such as threatening to end business relations
	Offender /Etc.	• Sincere remorse • No prior criminal convictions	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

DEFINITION OF OFFENSES

1 GENERAL TAX EVASION

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
General tax evasion where the evaded tax amount is less than 500 million	Tax Evaders Punishment Act, Article 3, paragraph 1, main text, Basic Law on Local Tax, Article 102, paragraph 1, main text	Imprisonment Not Exceeding 2 Years or Fine Not Exceeding Twice the Evaded Tax Amount (This May Be Concurrently Imposed)
General tax evasion where ❶ the evaded tax amount is more than 300 million and less than 500 million, and evaded tax amount is more than 30/100 of the reported tax, ❷ the evaded tax amount is more than 500 million	Tax Evaders Punishment Act, Article 3, paragraph 1, proviso, Basic Law on Local Tax, Article 102, paragraph 1, proviso	Imprisonment Not Exceeding three years or Fine Not Exceeding three times the Evaded Tax Amount (This May Be Concurrently Imposed)
Habitual tax evasion	Tax Evaders Punishment Act, Article 3, paragraph 4, Basic Law on Local Tax, Article 102, paragraph 5	Aggravated by up to 1.5 times the punishment prescribed in Tax Evaders Punishment Act, Article 3, paragraph 1 and in Basic Law on Local Tax, Article 102, paragraph 1

(unit: KRW)

1. Type 1: This indicates cases in which the amount of the tax evaded, refunded, or deducted (hereinafter called "evaded tax amount") is less than 300 million KRW.
2. Type 2: This indicates cases in which the evaded tax amount are 300 million or more, but less than 500 million KRW.
3. Type 3: This indicates cases in which the evaded tax amount is 300 million or more, but less than 500 million KRW, and the evaded tax amount is 30% or more of the filed or paid taxes · 30% or more of the determined and notified tax by the government, or where the evaded tax amount 500 million KRW or more.

2 TAX EVASION UNDER THE ACT ON THE AGGRAVATED PUNISHMENT OF SPECIFIC CRIMES

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Evaded tax amount is 500 million or more but less than 1 billion annually	Act on the Aggravated Punishment of Specific Crimes, Article 8, paragraph 1, subparagraph 2	Three years or more, or life imprisonment and 2 to 5 times the evaded tax amount as fine concurrently imposed
Evaded tax amount is 1 billion or more annually	Act on the Aggravated Punishment of Specific Crimes, Article 8, paragraph 1, subparagraph 1	Life imprisonment, or five years or more of imprisonment and 2 to 5 times the evaded tax amount as fine concurrently imposed

(unit: KRW)

1. Type 1: This indicates cases in which the amount of the tax evaded, refunded or deducted (hereinafter called 'evaded tax amount') is 500 million KRW or more, but less than a billion KRW yearly.
2. Type 2: This indicates cases in which the evaded tax amount is 1 billion KRW or more, but less than 20 billion KRW yearly.
3. Type 3: This indicates cases in which the evaded tax amount is 20 billion KRW or more yearly.

3 GENERAL OFFENSE OF GIVING OR RECEIVING FALSE TAX INVOICES, ETC.

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Issuing or being issued a tax invoice without actually furnishing the goods or services or submitting falsified information on the tax invoice sum table per sales and purchase	Tax Evaders Punishment Act, Article 10, paragraph 3	Imprisonment not exceeding three years or fine not exceeding three times the calculated tax as applied to the value-added tax rate of the supply price (This may be concurrently imposed)
Brokering or commissioning the aforementioned conduct	Tax Evaders Punishment Act, Article 10, paragraph 4	Imprisonment not exceeding three years or fine not exceeding three times the calculated tax as applied to the value-added tax rate of the supply price (This may be concurrently imposed)

1. Type 1: This indicates cases in which the supply prices entered in tax invoices issued without supplying or being supplied with goods or services, the supply prices entered in the tax invoices sum table per sales, tax invoices sum table per purchase, or the sales and purchase price total (hereinafter "supply prices or sales and purchase price total") is less than 3 billion KRW.
2. Type 2: This indicates cases in which the supply prices total or the sales and purchase prices total amount exceeds 3 billion KRW but less than 5 billion KRW.
3. Type 3: This indicates cases in which the supply prices total or the sales and purchase prices total exceeds 5 billion KRW.

4 GIVING OR RECEIVING FALSE TAX INVOICES UNDER THE ACT ON THE AGGRAVATED PUNISHMENT OF SPECIFIC CRIMES

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Conducts committed to gain profit and the total supply price amount exceeds 3 billion or more, but less than 5 billion	Aggravated Punishment Act, Article 8-2, paragraph 1, subparagraph 2	1 year or more imprisonment and 2 to 5 times the calculated tax as applied to the value-added tax rate of the supply price concurrently imposed
Conducts committed to gain profit and the total supply price amount exceeds 5 billion or more	Aggravated Punishment Act, Article 8-2, paragraph 1, subparagraph 1	Three years or more imprisonment and 2 to 5 times the calculated tax as applied to the value-added tax rate of the supply price concurrently imposed

(unit: KRW)

1. Type 1: This indicates cases in which the supply prices entered in tax invoices issued without supplying or being supplied with goods or services for profit, the supply prices entered in the tax invoices sum table per sales, tax invoices sum table per purchase, or the sales and purchase price total (hereinafter "supply prices or sales and purchase price total") exceeds 3 billion KRW, but less than 5 billion KRW (this includes cases of brokering or commissioning and the same applies below).
2. Type 2: This indicates cases in which the supply prices total or the sales and purchase prices total amount exceeds 5 billion KRW, but less than 30 billion KRW.
3. Type 3: This indicates cases in which the supply prices total or the sales and purchase prices total exceeds 30 billion KRW.

DEFINITION OF SENTENCING FACTORS

1 TAX EVASION/TAX EVASION UNDER THE ACT ON THE AGGRAVATED PUNISHMENT OF SPECIFIC CRIMES[1)]

1. PROFITS GAINED FROM THE OFFENSE ARE NOT SIGNIFICANT

- This applies to cases where the amount of profit gained by the offender is not substantial compared to the amount of tax evaded, and one or more of the following factors apply:
  - The profit gained from the tax evasion did not benefit the offender
  - Even though an actual transaction occurred, the offender falsified the tax invoices because of failure to receive an invoice
  - Other cases with comparable factors

2. OFFENSE WAS COMMITTED PRIMARILY TO POSTPONE THE PAYMENT OF TAXES

- This indicates cases where it is clear that the offense was committed primarily to postpone the payment of taxes, and merely resulted in a deferral of tax payment — such as the manipulation of the timing of recognition of gross income or deductible expenses to be included in the tax base in connection with periodic taxes, including corporate income tax, individual income tax, and value-added tax.

  ※ This factor does not apply concurrently with 'Profits gained from the offense are not significant' factor.

3. PLANNED AND/OR ORGANIZED CRIME

- This applies where one or more of the following are present:
  - The means and methods for the commission of the offense were meticulously planned.

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1) Sentencing factors with the same designation that apply to General Offense of Giving or Receiving False Tax Invoices, etc. and Giving or Receiving False Tax Invoices Under Act on the Aggravated Punishment of Specific Crimes, have the same definition unless separately defined.

- There were multiple persons involved in an organized manner for the purpose of committing the offense.
- Concealment of the evidence was meticulously prepared.
- Other cases with comparable factors

4. INTERNAL WHISTLE-BLOWING

- This indicates cases in which the police investigation or tax audit was initiated through the voluntary report of an offender who participated in the structural tax evasion with the intent to end the offense.

5. FILING AN AMENDED TAX RETURN OR LATE-FILED TAX RETURN

- This indicates cases in which the offender files a modified tax report within two years after the legal deadline according to the Basic Law on National Taxes, Article 45 (or Basic Law on Local Taxes, Article 49), or files a modified tax report within six months after the legal deadline according to the Basic Law on National Taxes, Article 45-3 (or the Basic Law on Local Taxes, Article 51).

6. PAYMENT OF A SUBSTANTIAL PORTION OF THE EVADED TAX

- This applies where one or more of the following are present:
  - When the offender voluntarily has paid more than $\frac{2}{3}$ of the evaded tax (including appropriating the national tax refund according to the Basic Law on National Taxes, Article 51)
  - When there is a certainty that the offender will voluntarily pay more than $\frac{2}{3}$ of the evaded tax by providing security or promising to pay through installments
  - Other cases with comparable factors.

7. PORTION OF THE TAX EVADED IS COLLECTED OR IS EXPECTED TO BE COLLECTED

- This indicates cases in which disposition for arrears was executed on the offender's property so that more than $\frac{1}{3}$ of the evaded tax was collected, or expected to be collected (including appropriating the national tax refund according to the Basic Law on National Taxes, Article 51).

8. MINOR PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.

9. CONCEALING PROPERTY TO AVOID PAYMENT OF THE EVADED TAX

- This indicates cases in which the offender deliberately concealed his property and interfered with tax collection.
- However, this does not apply to cases where the offender's conduct constitutes other offenses, such as those falling under the Tax Evaders Punishment Act, Article 7, or the Basic Law on Local Taxes, Article 103.

10. SINCERE REMORSE

- This indicates cases in which the offender is deemed to show genuine remorse for the offense after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending.

11. NO PRIOR CRIMINAL CONVICTIONS

- It means that the offender has no previous criminal conviction. However, this does not apply to cases in which the offense was committed repeatedly over an extended period.

2 GENERAL OFFENSE OF GIVING OR RECEIVING FALSE TAX INVOICES, ETC./ GIVING OR RECEIVING FALSE TAX INVOICES UNDER THE ACT ON THE AGGRAVATED PUNISHMENT OF SPECIFIC CRIMES

1. OFFENDER'S MINOR PARTICIPATION UNDER EXTERNAL PRESSURE

- This applies where one or more of the following are present:
  - Cases where the offender issued false tax invoices due to the customer's request in order to maintain a business relationship
  - Other cases with comparable factors.

2. ABSENCE OF PURPOSE TO COMMIT TAX EVASION OR ABSENCE OF THE TAX EVASION

- This means the cases where the offender committed an offense related to false tax invoices merely for overstating the invoice, and there is no purpose of committing the tax evasion, or the tax evasion did not occur.

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim expresses the intent of non-punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE SAME-OFFENSES

- For concurrent same-offenses involving General Tax Evasion offenses, Tax Evasion Under the Act on the Aggravated Punishment of Specific Crimes, Receiving False Tax Invoice, Receiving False Tax Invoice Under the Act on the Aggravated Punishment of Specific Crimes, the following method of aggravation for multiple offenses shall apply:
  - ❶ The Type of offense shall be determined based on the aggregate amount of criminal gain, which is the sum of the evaded tax amounts or the aggregate

supply values, etc. Within that Type, the sentencing range shall be selected by judges after taking into account all relevant circumstances.

❷ (1) Where the aggregation of criminal gain results in an offense Type one level higher than that of the most severe single offense among offenses of the same Type, the lower end of the sentencing range shall be reduced by 1/3. (2) Where the aggregation of criminal gain results in an offense Type two levels or more higher than that of the most severe single offense, the lower end of the sentencing range shall be reduced by 1/2. However, the reduced lower end of the sentencing range shall not fall below the lower end of the sentencing range of the offense Type applicable to the most severe single offense.

○ For concurrent offenses between General Tax Evasion offenses, Tax Evasion Under the Act on the Aggravated Punishment of Specific Crimes, Receiving False Tax Invoice, Receiving False Tax Invoice Under the Act on the Aggravated Punishment of Specific Crimes, the following methods of 'Determining the Sentencing Range for the Concurrent Multiple Different-Offense' shall apply.

4 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE DIFFERENT-OFFENSES

○ Except for concurrent different-offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply.

❶ The sentencing range for multiple offenses involving two offenses shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest upper end of the sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest upper end of the sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

- However, where the multiple offenses include concurrent same-offenses of the General Tax Evasion offenses, Tax Evasion Under the Act on the Aggravated Punishment of Specific Crimes, Receiving False Tax Invoice, Receiving False Tax Invoice Under the Act on the Aggravated Punishment of Specific Crimes, the sentencing range shall first be determined by applying the method for concurrent same-offenses involving above offenses, and the method of aggravation for multiple different-offenses set out above shall then be applied to that sentencing range.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

1 TAX EVASION

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Planned and/or organized crime • Prolonged and repeated commission of the crime for more than two years • Offense committed through the act of coordinating, arranging, instigating by tax accountants, certified public accountants, or attorneys-at-law who conducts taxation business by proxy arrangements, or offense committed by a revenue officer • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Offender's minor participation under external pressure • Cases where profits gained from the offense are insignificant • The offense was committed primarily to defer the payment of taxes • Payment of a substantial portion of the evaded tax • No prior criminal convictions • Voluntary surrender to investigative authorities or internal whistle-blowing, or filing an amended tax return or late-filed tax return
General Circumstance	• Prior convictions for the same-offense and/or prior sanctions including notification of disposition, or two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of family/social ties • Absence of sincere remorse • Leading role as a co-offender • Concealing property to avoid payment of the evaded tax • Continued offense notwithstanding the written warnings, financial audits, or actual survey by the tax service • Offense through collusion with the revenue officer • Obstructing tax investigation or post-offense evidence tampering or attempt to conceal or destroy evidence • Genuine efforts to pay the evaded tax	• Tax evasion committed due to financial distress • Portion of the tax evaded is collected or is expected to be collected • Stable family/social ties • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • Minor participation as a co-offender • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members

2 OFFENSES OF GIVING OR RECEIVING FALSE TAX INVOICES, ETC.

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstance	• Planned and/or organized crime • Repeated commission of the crime for profits (Type 1 crimes of giving or receiving false tax invoices, etc.) • Offense committed through the act of coordinating, arranging, instigating by tax accountants, certified public accountants, or attorneys-at-law who conducts taxation business by proxy arrangements, or offense committed by a revenue officer • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Minor participation resulting from external pressure • Profit gained from the offense is not substantial • The offense was committed primarily to defer the payment of taxes • No prior criminal convictions • Voluntary surrender to investigative authorities or internal whistle-blowing
General Circumstance	• Prior convictions for the same-offense and/or prior sanctions including notification of disposition, or two or more prior convictions resulting in a suspended sentence of imprisonment without labor or a heavier punishment • Lack of family/social ties • Absence of sincere remorse • Leading role as a co-offender • Offense through collusion with the revenue officer • Demanding false tax invoices from clients using their standing in business relations as an advantage, such as threatening to end business relations • Obstructing tax investigation or post-offense evidence tampering or attempt to conceal or destroy evidence	• Tax payments on false sales amounts • Offender failed to spend or retain a substantial amount of profit from the crime • Stable family/social ties • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • Minor participation as a co-offender • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  1. When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  2. When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  3. In cases in which 1 or 2 apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than 1 or 2, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.