§ 40.20 Previous prosecution; when a bar to second prosecution.

1. A person may not be twice prosecuted for the same offense.

2. A person may not be separately prosecuted for two offenses based upon the same act or criminal transaction unless:

(a) The offenses as defined have substantially different elements and the acts establishing one offense are in the main clearly distinguishable from those establishing the other; or

(b) Each of the offenses as defined contains an element which is not an element of the other, and the statutory provisions defining such offenses are designed to prevent very different kinds of harm or evil; or

(c) One of such offenses consists of criminal possession of contraband matter and the other offense is one involving the use of such contraband matter, other than a sale thereof; or

(d) One of the offenses is assault or some other offense resulting in physical injury to a person, and the other offense is one of homicide based upon the death of such person from the same physical injury, and such death occurs after a prosecution for the assault or other non-homicide offense; or

(e) Each offense involves death, injury, loss or other consequence to a different victim; or

(f) One of the offenses consists of a violation of a statutory provision of another jurisdiction, which offense has been prosecuted in such other jurisdiction and has there been terminated by a court order expressly founded upon insufficiency of evidence to establish some element of such offense which is not an element of the other offense, defined by the laws of this state; or

(g) The present prosecution is for a consummated result offense, as defined in subdivision three of section 20.10, which occurred in this state and the offense was the result of a conspiracy, facilitation or solicitation prosecuted in another state.

(h) One of such offenses is enterprise corruption in violation of section 460.20 of the penal law, racketeering in violation of federal law or any comparable offense pursuant to the law of another state and a separate or subsequent prosecution is not barred by section 40.50 of

this article.

(i) One of the offenses consists of a violation of 18 U.S.C. 371, where the object of the conspiracy is to attempt in any manner to evade or defeat any federal income tax or the payment thereof, or a violation of 26 U.S.C. 7201, 26 U.S.C. 7202, 26 U.S.C. 7203, 26 U.S.C. 7204, 26 U.S.C. 7205, 26 U.S.C. 7206 or 26 U.S.C. 7212(A), where the purpose is to evade or defeat any federal income tax or the payment thereof, and the other offense is committed for the purpose of evading or defeating any New York state or New York city income taxes and is defined in article one hundred fifty-five of the penal law, article one hundred seventy of the penal law, article one hundred seventy-five of the penal law, article thirty-seven of the tax law or chapter forty of title eleven of the administrative code of the city of New York.