

Set Off In Arbitration And Commercial Transactions

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Set Off In Arbitration And

Description. This book considers the issues involved in international commercial disputes where set-off has been used. Most such disputes are conducted through arbitration so the focus of this book is on the effect of arbitration proceedings on set-off claims. The book considers the important institutional rules of arbitration procedure such as the Swiss Rules, the CNUDCI, the ICC rules and others.

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Set-off is a commonly used but complex device used to avoid the cumbersome transfer of money in international commercial transactions. The situation is made even more complex when disputes arise bringing issues of applicable law and jurisdiction.

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Set-Off in Arbitration and Commercial Transactions ...

Set-off allows the parties to do the former. As defined and discussed

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further below, it is an operation by which two parties' obligations towards each other are mutually discharged. A "supremely efficient" operation, set-off eliminates the unnecessary formalism of reciprocal payments, and as such enjoys support from the business community.

Set-Off in International Arbitration by Prof Maxi Scherer ...

Most such disputes are conducted through arbitration so the focus of this book is on the effect of arbitration proceedings on set-off claims. The book considers the important institutional rules of arbitration procedure such as the Swiss Rules, the CNUDCI, the ICC rules and others.

Set-Off in Arbitration and Commercial Transactions: Pascal ...

About Set-off Defences in International Commercial Arbitration. The book deals with set-off in international arbitration proceedings. In these proceedings, set-off is frequently the tool relied upon to resist a claim. At the same time, the legal intricacies make it hard to use. The first part of the book provides a survey of set-off, including its definition, significance and functions.

Set-off Defences in International Commercial Arbitration ...

The availability of set-off in arbitration. In proceedings brought in the English courts in which the claimant is seeking a sum of money from the defendant, it is open to the defendant to seek to set off against that claim any sum which is allegedly owing by the claimant to him. English law for this purpose distinguishes between 'transaction' set-off and 'independent' set-off.

The availability of set-off in arbitration

Abstract. Set-off situations are frequent in international arbitration and are treated differently in common law and civil law jurisdictions. The present article analyses set-off from a Swiss civil law perspective and offers recommendations to international arbitration practitioners. The key findings are: (i) Set-off declarations may lead to the irrevocable acknowledgment of a countervailing claim.

Set-Off Defenses In Arbitration – Conclusions From A Swiss ...

Set-Off and Counterclaim When claims of money are at stake, which usually is the case in international economic arbitration, set-off and counterclaim are 'only a hair's-breadth away' 36 from each other. Both may be based on the same factual pattern, the co-existence of asserted claims between the parties.

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Set-Off in International Economic Arbitration ...

LIKE THE theorem of Pierre de Fermat, the problem of set-off defences in arbitration has so far resisted all attempts to resolve it once and for all. In order to properly understand the question at stake, certain fundamentals should be established from the outset. First, set-off is a defence to the whole or a portion of a claim to money.

Set-off Paradox in International Arbitration | Arbitration ...

Set-off situations are frequent in international arbitration and are treated differently in common law and civil law jurisdictions. The present article analyses set-off from a Swiss civil law perspective and offers recommendations to international arbitration practitioners.

Set-off Defenses in Arbitration – Conclusions from a Swiss ...

As is well known, the defence of set off allows a party receiving a claim to use a counterclaim to reduce or defeat the claim. The right to set off is often dealt with expressly in a contract, failing which, the common law fills the gap. Special rules apply in the case of insolvency, which are not covered here.

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A set-off is counterclaim that operates as a defence. "As a general rule, set-offs and counterclaims cannot be raised to defeat an application for summary judgment enforcing an adjudicator's ...

Adjudication: a setback for set-off? | Construction News

Arbitration is delivered by a neutral person (an 'arbitrator'). The arbitrator is impartial. This means they do not take sides. The arbitrator considers the arguments from both sides of the dispute and makes a decision based on the evidence presented.

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Set-off clauses are written into legal agreements to protect the lender. A set-off clause allows the lender to seize assets belonging to the borrower, such as bank accounts, in the event of a default.

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Set-Off Clause Definition

Right of Set-off. Borrower hereby grants to Bank, a lien, security interest and right of set off as security for all Obligations to Bank, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Bank or any entity under the control of Bank (including a Bank subsidiary) or in ...

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