

OFFSETTING AGAINST SAVINGS SCHEMES

Introduction

1. Some banking corporations consider that they are entitled to conclude a customer's savings schemes prematurely in order to offset the amount saved against that customer's debt to the banking corporation. This is done on the basis of a previous agreement with the customer permitting the banking corporation to act as stated if the conditions set out in the agreement are met. Premature conclusion of a savings scheme could cause real damage to a customer because of the loss of exemption from income tax and the right to indexation differentials or the right to receive a preferred loan.

Considerations for offsetting

2. (a) Even if a customer has given a banking corporation the right to conclude a savings scheme at a time decided by the corporation, this right should be used in good faith and in a way that will not cause the customer unnecessary damage. The banking corporation should ascertain whether there are other ways open to it of ensuring its rights, while minimizing the damage to the customer.
- (b) A savings scheme should not be concluded for the purpose of the aforesaid offsetting unless the following conditions have been met:
 - (1) The right to conclude the scheme has been granted to the banking corporation in an explicit agreement with the saver;
 - (2) The agreement makes it clear that the premature conclusion of the scheme could cause the saver to lose benefits due to him under the terms of the scheme, such as exemption from income tax and the right to indexation and interest differentials or a right to obtain a loan;
 - (3) The date on which the saver is entitled to withdraw money from the scheme in accordance with the approved terms has been reached;

- (4) The customer has been given an opportunity to repay his debt in another way;
 - (5) The banking corporation has previously realized the customer's liquid collateral (including negotiable securities) it is holding, and deferring the use of the right to conclude the savings scheme could damage it, even if this causes the customer serious harm.
3. It is hereby stated that this regulation deals only with offsetting against deposits in savings schemes, and not with liens against such deposits.

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