



Quiz

Legal Professional Privilege: tips and traps for practitioners

1. What types of communications attract the protection of legal professional privilege?
 - a. Confidential communications between a lawyer, his or her client, and any relevant third parties, made for the dominant purpose of giving or receiving legal advice, or preparing for existing, or anticipated, litigation
 - b. Confidential communications between a lawyer and his or her client, made for the sole purpose of giving or receiving legal advice, or preparing for existing, or anticipated, litigation
 - c. Confidential communications between a lawyer and his or her client, made for the dominant purpose of giving or receiving legal advice, or preparing for existing, or anticipated, litigation
 - d. Confidential communications between a lawyer and his or her client in relation to litigation that is already underway
2. What was the holding of the High Court in *Esso Australia Resources Ltd v Commissioner of Taxation* [1999] HCA 67?
 - a. The test for determining whether a communication is privileged is whether the sole purpose of that communication was the provision of legal advice or the furtherance of litigation

- b. The test for determining whether a communication is privileged is whether the dominant purpose of that communication was the provision of legal advice or the furtherance of litigation
 - c. The dominant purpose of a communication is the purpose which was the ruling, prevailing, or most influential one
 - d. None of the above

- 3. Which of the following is not an example of a privileged communication?
 - a. An email from a client to their lawyer seeking legal advice
 - b. Notes of a meeting between a client and their lawyer
 - c. Draft contracts sent between lawyers on opposing sides
 - d. Draft contracts sent by a lawyer to their client

- 4. What was the holding of the High Court in *Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission* [2002] HCA 49 in relation to regulators and privilege?
 - a. If the statute providing the regulator with its powers is silent on privilege, the person of whom the regulator requests privileged documents can maintain the claim to privilege
 - b. Regulators can obtain access to privileged documents in certain outlined limited circumstances, regardless of what the statute providing the regulator with its powers provides
 - c. If the statute providing the regulator with its powers is silent on privilege, the person of the regulator requests privileged documents must provide the regulator with access to the documents
 - d. None of the above

- 5. Which of the following is not something in-house counsel must establish to claim privilege on behalf of their client?
 - a. Their advice to the client must relate to a matter where it is appropriate and proper to obtain legal advice
 - b. They were not motivated by concerns of commerciality in giving their advice to the client
 - c. Their advice to the client must have been given in confidence

- d. The communication must arise from the normal client-lawyer relationship

Answers:

1. c 2. b 3. c 4. a 5. b