

&XUWDLQLQJ DJJUHVVLYH WD
LQWURGXFLQJ PDQGDWRU\ GLV
\$XVWUDOLD SDUW

\$QQHW :DQ\DQDQDQXSWQXD\LV .XPDU

Stat

*OREDOLVDWLRQ KDV LQFUHDVHG IRQRQWXSQBWLHVHIERHUV DEJUFHUVILQHWLDRQSDO H
WD[DGPLQLVWUDWLRQV PD\ QRW DQSDYMKHQYHYWLIQRU FDDWULRQ HDGE RQXNG WIKHVH
D VWUXJJOH IURP D SROLF\ SHUVSHFWDZVHDVILQFHHPKRWLVWDRQDQ SQTRWIKWHDQHH

2QH H[FHSWLRQ LV WKH XVH RI PDQDQDQWUHEXEURVXKH XSKIQIRV W'GLVFORVXUH
UXOHV FDQ SURYLGH JRYHUQPHQWVHZLSWRQGVKRIUWUIDXQFSDUHQH\WQH HUGHGNWR U

7KLV DUWLFOH H[SORUHV WKH JHQHLDGDFDWH IRWHIVQWWRQXFLQDVFHVWQVXG\ RI \$X
FRQVLGHULQJ ZKHWKHU WR DGRSWHGXHKQSDUHWLPHE\TKERPSIDUQWILYRQDHRJDO DQD
DSSO\LQWKH8. DQG6RXWK\$IULFZQIFRQWUHWLQIWKHDWISYHUILQIRUHPRQJD UHJLE
LQ RWKHU &RPPRQZHDOWK ODZ MXULVGLFWLRQV VXFK DV \$XVWUDOLD
LRQDOV LQWHUQDWL

3URIHVVRU LQ WKH 'HSDUWPHQW RI VDWLWXLRQ DQEXWKHRSIUERDQ
0DQDJHPHQW 6FLHQFHV 8QLYHUVLWHRIL3QHWRDLDRUEVVRDQWILWGHQ
6FKRRO RI 7D[DWLRQ DQG %XVLQHVVWIKH &K6LHV LQTXDUHGHQPHQWR
UHFLSLHQW RI WKH \$EH *UHQED&PKRHOHDIUFI [DHWLQRQZDQGS%RVV
816: 6\GQH\
6HQLRU /HFWXUHU LQ WKH 6FKRRO RI VDWLWXLRQ DQG %XVLQHVV /D

H-RXUQDO RI 7D[5HVHDFK

7KH\FOLVHFORUVXQWURK@XFLQQBXQWU

*OREDOLVDWLRQ KDV LQFUHDVHG RSIQRUVXQLWLHV7 IR
PXOWLQDWLRQDO HQWHUSULVHV ZKLFKHRIE\HQWLORLW
ORRSKROHV LQ WD[ODZV ZLRZKH\QHWHWKCH\$HUDPHHWPHUVPI
ZHOOEH\RQGZKDWLV OHJDOO\ DQFDSWDRQNEKXWLQDY
QRDFWXDOHFRQKILFKHSDHFWQDQXUQDW RGGVZLWKWK
WD[OHJLVODWLRQ

%(36 ZKLFK UHFRPPHQGHG XVLQJ 0'5V WR FKHUWXLQO \$73
LVVXHG D 'LVFXWVLDWQVRXSHKW FRPPXQLW\ YLHZV RQ KR
IUDPHG LQ WKH \$XVWUDOLDQ FRQWHUWCKHWYDOUH HGD LQ
\$OWKRXJK WKH FORVLQJ GDWH IRU VKEHUVQPHQQWZQWLFL
IXUWKHU FRQVXOWDWLRQV RQ LPSOHPHQWDWLRQ GHVLJ

7KLV WZR SDUW VWXG\ H[SORUHV WKH QVWUHQJIRUQ LQWWR
FDVH VWXG\ RI WKH \$XVWUDOLDQ WBSHUGLRSQFV XQKFR QVH
WR EH IROORZHG LQ SDUW E\ D REPVKUDWHL YK OHVDDS
WKH 8. DQG 6RXWK \$IULFD ZKRVH H[QHUWHPHQHV RUDJEHH
VXLWDEOH IRU DERQZHLRQWLQ OD&RXPULVGLFWLRQ

6SHFLILFDOO\ WKHDSXXLWFXVQVLDQ 3DSHU VHUYHV DV D
DQDO\VLV LQ WKLV DUWLFOH ZKIPSKHZKQVSLYHYUGN SURQV
WKH PDWWHUV UDLVHG LQ WKH FRQVWZK[HWWKHD MRULLQWGU
0'5V ,W KLJKOLJKWV WKH REMHFWLYHQ DQG SIRQYDIQWBJ
FRQFHUQV LQ WKH 'LVFXVVLRQ 3DSHQFHLWKIDULQHUVWIKW
DYDLODEOH WR WKH \$XVWUDOLDQ 7DQVSLRQ, WISLFHYLSGE
UHFRPPHQGDWLRQV WR HQVXUH WKDWHUWKHS ZXQKWHGIRVC
GLVFORVXUH UXOHV QV ULPSRVH ,Q@ X\$ 0Qxp 8p Å — @PGX

H-RXUQDO RI 7D[5HVHDFK

7KH\FOLVHF ORU X QW URK@XFL QQ BXQWU

KDYH VLQFH XQGHUJR ZHW P D Q \ I R F N Q J R Q W K H X V H R I D E X V I
,W ZDV IROORZHG E\ &DQDGD ZKLFK HLQ PH I R Q D F S W H F G I D F
SODQQLQJ DUUDQJHPHQWV LQYROYL Q X U V L W I L Q J D R U U S D Q J S H
DQG ZKLFK DOVR LQ -XQH HQDFWHG UHSRUWDEOH WD

H-RXUQDO RI 7D[5HVHDFK

7KH\FOLVHFORUVXQWURK@XFLQQBXQWU

WDNLQJ LQWR FRQVLGHUDWLRQ WKHUIQHMGW ZHQOUDWN
DGPLQLVWUDWLYH FRVWV IRU WD[DGPLQLVWUDWLRQV I

)RU FRPSOHWHHQWVWUP µDJJUHVVLYH WD[SODQFRLQJG\$73
E\ WKH 2(&')RUXP RQ 7D[\$GPLQLVWUDKWRIGRIQQ 7KH\))RUXP
WR EULQJ WRJHWKHU WKH KHDGV RRXQW WIXHWK RQG WIRP
2(&' FRXQWULRIS HWRHGWYMH UHVSQRVHV WR FXUDHQW WD
FROODERUDYLYH ZDKH)RUXP KHOG D PHHWLQJILHG6RXWK
\$73 DV RQH WKH LVVXH V WKH\ ZRXOGUHQFKW DRQGVWRDFRW
ZLWK PHDVXUHV WR FRKHUWURW WKNDRIXP H[SUHVVHG V

(QIRUFHPHQW RI RXU UHVSHFWLYH WDPV WZMDKHVDQ
FDSLWDO OLEHUDOLVDWLRQ DQG DGYLDFKDYHQ F
RSHQHG WKH JOREDO PDUNHWSODFH WRLD HZLVGKILUVV
PRUH RSHQ HFRQRPLF HQYLURQPHQW JLVZWRKG LWU E
FDQ OHDG WR VWUXFWXUHV ZKLFK FKQOQHJH
DUUDQJHPHQWV E\ ERWK GRPHVWLF DWHG QRQHLJQ
FRPSOLDQFH ZLWK RXU QDWLRQDO WD[ODZV

7KH FRQFHSW RI \$73 ZDV KRZHYHU RQO\ GHILQH E\

H-RXUQDO RI 7D[5HVHDFK

7KH\FOLVHF ORU X QW UR@XFL QQ BXQGD

7KLV G~~W~~LIRQ VXJJHVVV WKDW WKH IRFXVWRB W~~K~~JH H V&'L'YH

H-RXUQDO RI 7D[5HVHDFK

7KH\FOLVHFORUVXQWURKXFLQQBXQWU

JHQHUDOO\ LQYROYH FODLPLQXHQFHV LQWHGHGWFUHLRQW
RU FRPSOH[ILQDQFLQJWHQDQKHVHQWFKHPHV LQYROYH µE
RII DUUDQJHPHQWV WDLORUHG IRU KFRJRSRQDRPH HQGLW
ZHOO DV DUUDQJHPHQWV WKDW DUHQHRLVVKHPBXVWWWDIGLDE

H-RXUQDO RI 7D[5HVHDFK

7KHUFDLMFIRUVIXQWURGXFLQJQPDQG

SURPRWHUV DQG UGCHUWKH\ DFW DV D GHWHUUHQW WR
VFKHPHV

H-RXUQDO RI 7D[5HVHDFK

7KH FDVH IRU LQWURGXFHQJ PDQGD

2QH RI WKH NH\ DUJXPHQWV DJDLQVW FWRN XDUHR \$W LIRQH F
\$XVWUDOLD LV WKDW WKH FRXQW\H\OZJHDFK\ KHUYHWR
\$73 \$V QRWHG HDUOLHU RWKHU FRXQW\NDHV DZKMF K DWY
2(&' UHYLHZZW WKH\ DOVR KDYH 0'5V

7KH 7UHD'LVF\WVLRQ 3DSHU OLVWV WKH FDRZHRULHV I
GLVFORVXUH UXOHV WKDW DUH ,FW UVHQRWO\WKCH SLODF HQY
DUWLFOH WR SURYLGH D GHWDLOHG SDQWQHVL V WR ILKRW RD
KLJKOLJKW WKH SXUSRVH RI WKH UHQDHWIDRQQWIRX OZKV V@
UXOHV IDOO VKRUW RI WKH REMHFWLYHV RI 0'5V

6SHFLILFDOO\ WKLW DUWLFOH KLVWLFXJKDNUV UWKIHH VLWIKVHD
7D[3RVLWLRQ 6FKHGXOH DQG WKH 3R'PRWHUD QIGQDOW\
UHVSHFWLYHO\ 7KHVH KDYH PDQGDWRW\ ISQRHMSODRQW M
SURYLGHG DV WR ZK\ WKHVH UXOHV VVWL005 VDODQGVKI
UHFRRPHQGDWLRQV DUH SURYLGHG DMYWRWKRCZ DQ\ RYHU

4.1.1 Disclosures recommended by the OECD

OECD Common Reporting Standard 7KLV LV D IUDPHZRUN IRU H[FKDQ
DFFRXQW LQIRUPDWLRQ EHWZHHQ JRYHUHQPHQWVXLUHQD
XQGHUWDNH GXH GLOLJHQFH WR L@QWWLKH\OGI SRU WDEW
E\ IRUHLJQHUV DQG WR UHSRUW WKHPHFKDQKH \$WELV
LQIRUPDWLRQ ZLWK LQWHUQDWLRQDO WD[DXWKRULWLH

Country-by-country reports ,Q OLJKW RI \$FWLRQ RI WKH 2(&'
PXOWLQDWLRQDO HQWHUSULVHV ZLW&' DQELXODL RQ RDEDH
UHTXLUHG WR SURYLGH GHWDLOHG DQWIRHUP DWILRQL \$RUHO
PHWKRGRORJLHV

8QOLNH WKH DERYH GLVFORVXUH DDOHQV WZKWKW DRQVOLA
5HSRUWLQJ 6WDQGDUG DQG ODUJH EX@FWXQWVWHUDORUQ
0'5V DUH EURDGWLQHV FDSQSHFDSWXUH DQ\ W\SH RI WD[RU

4.1.2 Disclosure before lodgement of tax returns

Tax rulings \$ WD[SD\HU FDQ YROXQWDULO\ DSR@\WKH WDE \$7
DSSOLHV WR D VSHFLIEFU WPD IDLr@DQJHUPHQW LK uSp G, à

DUUDQJHPHQWV WGDW KDYH QRW DQWURK@XFLQQBXQWU
DSSOLFDWLRQV

Annual compliance arrangements 7KHVH DUH YROXQWU\ DGPLQLVWU
ZKLFK VHW RXW D IUDPHZRUN IRU PDKQJELHQWZHHHQFRPSOL
DQG DWD[SD\HU \$Q H[DPSOH LV WKHGHRGEXQWDRUS\HGD E\7W
%RDUG RI 7D[DWDWQWLRQH 7UHDVXUHU\UHTXHVW WR HQ
DYRLGDQFH LQIRUPDWLRQ E\ FRUSRUDWLRQV

Pre-lodgement compliance review 7KLV LV DQ DGPLQLVWUDWLYH SURF
WKH \$72 IRU VRPH ODUJH SXEOLF FRPSIDQERHSQRWQFRY
DUUDQJHPHQW ,W LV DPHG DW LGH@Q p% WUa

H-RXUQDO RI 7D[5HVHDFK

7KH\FOLVHF ORU X QW UR@XFL QQ BXQ@DU

ZKLFK ZDV LVVXHG RQ \$SULO

4.1.4 *Disclosure after lodgement of tax returns*

Exchange of information \$XVWUDOLD KDV GRXEOHDWQD[DWDLRQ
LQIRUPDWLRQH[FKDZLWKRURWHHPHQWQWYMXULVGLFWLRQV
RIWD[SD\HU LQIRUPDWLRQ

Questionnaires sent by the ATO to selected taxpayers \$QH[DPSOHRI DTXHVWL

&RXUW RI \$XVWUDOLD WR7KHS RNFHDXPLSHLODSHW\DWKH)HG
FDQ LPSRVH LV WKH JUHDWHU RI

x SHQDOW\ XQLWXD OF XWRU HQMCOQLRQ LIQGL DLGXDO
DQG

x SHQDOW\ XQLMTXDOXWRH QMLO\OLRQ HIRG\
FRUSRUDWH

RU WZLFH WKH FRQVLGHUDWLRQ UQGHUHFWRU H\HFKHY
RU LWV DVVRFLDWHV LQ UHVSHFW RI WKH VFKHPH

6LQFH WKH UXOHV ZHUH LQWURGXFHGLVQKZK\$FK KFLWLOO
SHQDOWLHV ZHUH OHYLG DJDLQVW WKHWSURPRV
3ULFHZDWHUKRXVH&RRSHUV VXJJHVW W\KDWWRKIDSUR ER
GHOLEHUDWHO\ SXW LQ SODFH LQ SUHUUHUIHQF H\HFR EP HQC
E\ WKH 2(&D[SUDFWLWLRQHUV DVVHUV WKDW HYHQ WK

FRXOG FR H[LWV ZLWK WKH SURPREVHHUZSKHQDKCHU\ W K
\$72 ZLOO OHDUQ PRUH WKDQ LW DOKHDC\VGRRHFDK\H
WKH SURPRWHU SHQDOW\ UXOHV SURVHGHN DS V\WUR
UXOLQJV RU WR QRW HQJDJH LQ VFKHPHV ZKLFK FR

,W LV VXEPLWWHG KRZHYHU WKDWUHQHQ SWKIR\XD KV WJQL
UROH LQ GHWHUULQJ μSURWKLHLKMHGY F SQDOW\LGXHLPSRV
SURPRWHUV WKH SHQDOWLHV RQO\URSPROW HIRWHSU2WKH V
H[SODLQV WKDW

7KH SURPRWHU SHQDOW\ ODZV DUH QRW LQWHQGH

:LOVRQ 5RJHUV DQGW3KQWVXJJHVW WKDW DQ\ RYHUODSV
 0'5V FRXOG EH DPHSULRISDWDWHEOEJLRUOHHWL&RPOUDYWRQF
 RI 7D[DWLRQ'Q(SVFKHDEVRQRWJWCKHWKHDVV DOZD\ V WKH SU
 GHILQLWLRQ DQG DOVR WKH SUHSDDQWGHQHVFKDQRJHPDQ
 WLPHOLQHVV RI WKDW DENQRZOHGJHG WKDW FRXQWUL
 SUDFWLFHV ZLWK UHVSHFW WR WKZV OHPHFWQWUIGHW
 YHU\ GHWDLOHG UXOHV DQG RWKHULFQRWUOLGHVOPDXHW
 H[DPSOHKLOH D SULQFLSOHV EDVHG DSSURDFKQ SISVIGDFKL U
 DOVR UDLVHV D QXPEHU RI LQWHUSLUHQWVHYHHFKDWRDHW
 OHJLVODWLYH LQWHQWLRQ DV LW LV H[SUHVVHG

Issues pertaining to overlaps with anti-avoidance rules. 7KH 2(&' FODULILHV WKDW
 FDQQRW UHSODFH DQWL DYRLGDQFBUXGHV2W&KQQRWDEVR
 WKDW WKHUH DUH VRPH LQHYLWDEWKHDRQGHGDIWLRIHQHGH
 RI 0'5V DQG JHQHUDO DQWL DYRLGDQFBUHQVMDQFHS\$SSURY

H-RXUQDO RI 7D[5HVHDFK

7KH FDVH IRU LQWURGXFHQJ PDQGDW

WKH \$72 ZLOO KDYH WLPHO\ WDUJHWQHZKDKG FRPISUVHKQV
WR HQDEOH WKH JRYHUQPHQW WR TXILFNODWKHHQDZLI\ DQ
&RXQFLO RID\$XVWUDOLDW D PDQGDWRU\ GLVFORVXUH UH
ZLWK PRUH WLPHO\ LQIR UNHD\WLCRYQDQW DJE R S V DFKH DWUHI
WR WKLVLV W KDW WKH LQIRUPDWRU RQ JDQW K WUVHCOVKR
DGPLQLVWUDWRUV ZRXOG QHHG WR KHVHW WYKHO\ DGG LW
PDQGDWRU\ GLVFORVXUH UHJLPH WR EH HIIHFWLYH

4.2.4 Ensuring MDRs are appropriately balanced with competing policy priorities

\$Q LPSRUWDQW PDWWHU KLJKOLJKW DSSER\RSWHDW XHO\ IEND
FRPSHWLQJ SROLF\ SULRULWLHV ZLWKH WUHQ IHP SKRD X Q Q HRF
RYHUODS ZLWK H[LVWLQKIGLVWHORWIXUQH FRXQHLGHUV WZR
SULRULWLHV W KDW QHHG WR EH EDIOD WKHGW HLPDQW WED O
NH\ SROLF\ REMHFWLYHV RI 0'5V D QV VHQFR Q GL EDODJHVL

Balancing the trade-offs that emanate from the key policy objectives of MDRs

(IHFVLYH 0'5V UHTXLUH VWULNLQJ DSEODE\QIFHS EHVWZHY
REWDLQLQJ UHOHYDQW LQIRUPDWLRQWLQWLRQRIUHQH WIRQSU
PLQLPLVLQJ FRPSOLDQFH FRVWV RQDW KPH RRV EMUSKVQICE Q
SURFHVV RI UHGUDIWLQJ DQG FRQVHVOLQWV LQJQH ZLVW LQ
\$XVWUDOLD VKRXOG DYRLG XQQHFHW RQW D [SD\ WU R Q D
EH GLVFXVVG IXUWKHU LQ 3DUW D QW WKKLWVW WKKH\0'5V
ILVFDOLQWHJULW\ DQG VXVWDLQDELYDQWV H EW WHITX ISU B
SUHVHQW WKH ODFN IRN HWUDW VSHW\HQEILFXOW IRU WD[D
WKH \$72 WR REVHUYH ZKHWKHU DQV HRFZ DJE Q D WQ Q D3W L
EDODQFH WKHVH FRPSHWLQJ SROLF\ RLP SHUDW W KYHMV WKKH
WKH 0'5V VKRXOG EH GHVLJQHG ZLWK WKKH WWR RQO Q
GHWHUHQFH VSHFLILFDOO\

'HWHFWLRQ RI XQNQRZQ VFKHPHV ZKLFKHVUH DLI
LQFRQLVWHQW ZLWK RU W KDW UHQHYRQQGW WWH S
- W KDW LV REWDLQLQJ LQWHOOLKHQW HD UNJ D WGHIPQD
DQ HDUOLHU SRLQW LQ WLPH W KDW XFKHQ VWZKHQ QFK
LV LV PDGH DYDLODEOH RU PDUNHWHG

2 (& 'Action Plan on Base Erosion and Profit Shifting DERYH Q
/DZ &RXQFLO RI \$XVWUDOLD DERYH Q
\$XVWUDOLDQCDPHDNLXU Mandatory Disclosure of Tax Information DERYH Q SDUD
&RQVLVWHQW ZLWK WKH 2(&')LQDO 5 RFRVWG WRQHIE QGHQDHHQW\
DSSURSULDWHO\ EDODQFH FRPSHWLQJ SRLQJL Q ULRULWLHQV DYOHLQXGLO
WR FUDFN GRF '0PEE WA1(p' LWF W 'BPL 3

H-RXUQDO RI 7D[5HVHDFK

7KHUFDLMFRUVIXQVHURGXHFLQJQPDQGVW

,GHQWLILFDWLRQRI LQWHUPHGLDUFLEHQWZKHRYDWH QR
VKRXOG DOVR GHWHU LQWHUPHGLKHLSHOW\IURP IGRIOO
IRU OHJLWLPDWH SURIHVVLRQDO DGYLVHUV

\$Q 0'5 JURXQGHG LQ WKHVH SROLF\ REMQWFLYIHW\ ZRQCO
WXUQ ILVFDO VXDWRIEHLELQJODLWH\TZKLWHOD WDUJHWHG VX
DUH QRW XQGGO\ EXUGHQHG

,W LV DOVR LPSRUWDQW WR QRWH WKIDPSHEIDOWLQHLVJR
PLQLPLVLQJ FRPSOLDQFH FRVWV RQ RWHJKDQG DQG ISUR
VXVWDLQDELOLW\ RQ WKH RWKHUHKBDCUHLTXHLYLHWDE OUH
WKDW PD\ IRU H[DPSOH UHVXOW LIQQDWKHDGHRVRIQ ERHWZ
DQG HQVXULQJ HIILFLHQF\ RI WKH YIPR UZKRØKFR IWDNH S
GHVLJQLQJ 0'5V IRU PXOWLQDWLRQDOWKHWHU\SWUDGVI BR
WKH WD[SROLF\ GHVLJQ FRQWH[WJKDQ EHLØRZXVWUDWH

)LJ 7D['HVLJQ 3ULQFLSOHV

VHOI LQFULPLQDWLRQ DQ\ PRUH WKDQLVVSQHFRVWVURQ
DOVR EHHQ SXW IRUQZD WDFR XQHWDQJ DGYLVRU\ ILUPV

Right to privacy. 5HTXLULQJ D WD[SD\HU W *Prigal v Secretary, Department of Health and Ageing* OIR VEXUHD FWD [I
RI WKH ULJKW ,WRVSKRLXYDF\ KRZHYHU EH QRWHG WKLV F
'LVFORVXUH RI FRQILGHQWLDQ LQIRGDQWHLRZLWFRQDZVM
GHPRFUDWLF VRFLHW\ WKDW DUH QDEQVLYQWUURUVWKHVS
WD[EDVH RI DFRXQWU\ WKLV ZRXCKHPDWHM XWKMLGLDVEO
WKHVH JURKZQGYHU WKHUH KDV WR EH D EDQD QJLH KEW WZ
WR SULYDF\ DQG WKH SXEOLF LQWHFHUHVVR DQ KW K H HG M X F
EDODQFH ZH VXEPLW WKDW FDUH V KVR XWDCU JHHW WRDQOH QP DW
PDUNHWHG VFKHPHV WKDW KDYH D VLJQW KLH DUHW ILPIS DFI
WKH QHW WRR ZLGH WKHUH LV D H DUQJJKUW W KRI VW W KH HV D
DQG WKH SURWHFWLRQ RI WKH SXQDSRILQW HUHVV PD\ E

Legal professional privilege. ,QKHUHQW LQ OHJDO SURIHVVLRQDO SUL
DQG UHFHLYH OHJDO DGYLFH DV IZHDQ\ DQ GW KRHQWLDG S Q WH
\$ PDQGDWRU\ GLVFORVXUH UHJLPH ZKXLFK RIHWXKHUGHVWFR
D WD[SODQQLQJ VFKHPH ZRXOG LQ WDUHGHUWH Z LDW W DW K DW
IURP WDNLQJ OHJDO DGYLFH DERXW QWDF WLDQ QFR Q V HGHKW
SURIHVVLRQDO IURP JLYLQJ DGYLFH PRQUDV D Q WF WRVWDQ V K
0'5V GR QRW WUDPSOH RQ WKH FRPPRQLRQDQGSUULQFLSOHV H
WKH \$XVWU *Badr v Commissioner of Police* W KRH +LJK &RXUW KHOG WKDW

7KH ODZ FDPH WR UHFRJQLJH WKDW QRHFLWWD EHVW W I
WKHUH VKRXOG EH IUHHGRP RI FRPPXQLFDFOLHQQWEH
IRU WKH SXUSRVH RI JLYLQJ DQG UHSHKLYSIRQJHORIJ D
OLWLJDWLRQ DQG WKDW WKLV HQWDIXFKG LPPX
FRPPXQLFDWLRQV EHWZHHQ WKHP

+RZHYH *Mann v Carnell* DQ *Osland v Secretary, Department of Justice* WKH
+LJK &RXUW UXOHG WKDW DW FRPPRQUODXE WKDQGHVFD E
RSLQLRQ PD\ DPRXQW WR ZDLYHU RIVOH MDKHSURQMVHVQVQV
WHUPV RI WKH SULQFLSOHV RI IDLUQWVW W KHES/HUQLQJ L
American Tobacco Australia Ltd v Secretary, Department of Health and Ageing L W
ZDV KHOG WKDW WKH GLVFORVXUH RIF W KH R QL GWHRI Q

/DZ &RXQFLO RI \$XVWUDOLD DERYH Q SDUD
µ7KH UHJLPH VKRXOG UHVSHFWLFW KIHQFSOXG Y Q JO W W KH DNVW W QVFL
FRQFHSWLDQWKH \$72¶V \$FRXQWDQWV¶ W R Q H H V H I L R V Q ¶ P L W K H ¶ Z H I K L O
\$GYLVRU RU \$72 DQ R V H H U
µUDQVDFWLRQV WKDW GR QRW LQ WRKDYH HRXOYGLUQILNLHDFRQFWFDQ S
RIWHQ LQFOXGH FRQILGHQWLDOLW R P H I T X H L L D H P H U H W W R I Q V F R K F S H W R Q M I
UHVWULFWLRQV DORQH VKRXOG QRW W E R Y J H Q D G L V F O R V X U H U H T X L
\$UWLFQH RI 6FKHGXOH , Q W H U Q D O M L V R Q H D D O & S R L V H Q V I Q V W I R V Q K & L Y L O
Rights Commission Act 1986 & WK
%DNHU DERYH Q
%DNHU DERYH Q
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> @ +&\$ &/5
> @ +&\$ &/5
> @)&\$)&)&5

H-RXUQDO RI 7D[5HVHDFK

7KHUFDLMFIRUVIXQVHURGXFLQJQPDQG

QHFHVVDULO\ DPRXQW WR D ZDLYHRI RWKSU ISYILQVHRJH VHQD
UHO\ RQ WKH SULYLOHJH LV LQFRQMLSVLHQWHZHWK WKH
,Q 6RXWK \$IULFD WKH 5HSRUWDEQRWUSUDQYHGHQWV WJQ

H-RXUQDO RI 7D[5HVHDFK

7KHUFDLMFORUVIXQVHURGXFLQJQDQGW

WR FRQFHUQV RYHU VHOI LQFULPLQDDWLVRHQXRMGKHUWWKHDIQ
RI RWKHU LQIRUPDWLRQ FROOHFWLRQ SRZHUV

Legitimate expectations. :KHUH 0'5V DUH LQWURGXFHG WD[SD\H
OHJLWLPDWH H[SHFWDWLRQ WKDWHVQOEDGFOWKXDJH DPN
DJUHHPHQW WKDW WKH VFKHPH L WKB CFHQ WJUDWU HURPLW
DXWKRULW\ 7R DYRLG VXFK OHJLQWPDWWDWHMSKH WJHWLRFH
FOHDU WKDW WKH GLVFORVXUH GRHFKHQPHWRLP WCK\HDQDDE