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Justice Hill Memorial Lecture 2020: The Judicial Work of the Hon Justice Edmonds –
Hon Justice Steward

This article surveys the judicial work of Justice Edmonds and, by doing so, reveals that his Honour’s remarkable scholarship, fairness, diligence and commitment is what led his Honour to succeed Justice Graham Hill as Australia’s leading tax judge. 177

Double Taxation Agreements: Shield or Sword? – *Joseph Tranzillo*

Australian courts have had much to say on the interpretation of Double Tax Agreements (DTAs) in recent years. Over the last two decades, an interesting discussion has unfolded in Australia regarding the object and purpose of DTAs: are DTAs only ever a shield, never a sword? This issue was recently settled by the decision of the Full Court of the Federal Court of Australia in *Satyam Computer Services Ltd v Federal Commissioner of Taxation*. This article examines the history of the “shield and sword” thesis and considers the broader implications of *Satyam*. This is illustrated by examining the Directors’ Fees and Business Profits provisions in Australia’s DTAs and the application of Australia’s capital gains tax rules to non-residents. 186

Taxation of Live Stock in Australia: A Critical Review of Tax Law and Policy –
Christina Allen

One of the fundamental aims of any income tax system is to measure the net income earned by taxpayers during a given financial year. This can be difficult for primary production businesses involving live animals because animals are inherently different from other kinds of assets. Whereas previously Australia’s tax system allowed primary producers to use either a market valuation or cost-based valuation to assess the value of their animals, the *Income Tax Assessment Act 1997* (Cth) introduced changes that brought live animals under the rules for ordinary trading stock. This article offers a critique of the policies embodied in the Act and its approach to taxing animals in primary production. In particular, it highlights the outdated prescribed values given to live stock acquired through natural increase (ie offspring) and biased tax concessions that apply to certain types of animals. These tax rules have not been reviewed in decades and urgently need to be reassessed. 209

BHP in the High Court: An Analysis of the Court’s Reasons – *Hon Richard Edmonds AM SC*

The authority of the recent unanimous decision of the High Court on the facts in *BHP Billiton Ltd v Federal Commissioner of Taxation* cannot be challenged, although the facts in another case may enable it to be distinguished. This article considers the propriety of the reasons as to why their Honours came to their conclusions on the issues in dispute. The author’s disappointment with those reasons is twofold; first they are less than convincing and second, they leave the outcome of the same issues in another case as unformulated questions of fact. 234

