The SMSF Academy Podcast - Transcript

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Aaron Dunn: You're listening to episode 24 of the SMSF Academy Podcast.

Announcer: Welcome to the SMSF Academy podcast. The show designed to help professionals stay ahead of the curve. Now, here's your host, the man that's in the know and shows you how SMSF is done right, Aaron Dunn.

Aaron Dunn: Hello, and welcome everyone to the SMSF Academy Podcast. Today we're going to be looking at the ATO's final position in relation to the events based reporting. This has been going on now for some time, so as we reflect on the ATO's initial decision, we saw the ATO set out a framework for 10 days after the end of the month in respect to reporting the various debits and credits. And we do see APRA funds being required to adopt that effectively from November (this year). When we look at then what has happened in the SMSF sector, there was a large push back, and my guest today, Ron Lesh, Managing Director of BGL will talk about shortly, that push back, (which) was something that was really important to ensure that we got this right for the SMSF sector. And ultimately, what that lead to was the ATO providing a position paper which, not only looked at the first decision that the ATO made around events based reporting, but an alternate model which looked at a 28 days after the end of the quarter process, but only for a period of time.

Ultimately what happened off that was the ATO had a significantly greater amount of submissions, around 170, more than they expected (from the position paper). I think they were only expecting around the 20 or 30. That then lead to, ultimately, the finalisation of what we have seen just recently published. And most importantly here, we are looking at some very specific carve-outs, both in terms of the permanency around the quarterly reporting function, but also a $1 million total superannuation balance carve-out.

So I'll introduce my guest today, Ron, thank you for joining me.

Ron Lesh: No problem, Aaron.

Aaron Dunn: You have been someone that has been very vocal in this space and goes back to when we were talking around RegTech. At that time, and we were talking about these issues and being very active about these, and you put in place at that point in time, a #telltheato campaign as well. Really, why did you believe it was so important to fight the fight?

Ron Lesh: Okay, well I suppose ... A bit of history with our involvement in this. I was involved in a ATO workshop back in March (2017), and that was the first time that I'd seen what their proposals were for the TBAR, the timing, who was going to report and when and whatever. And I was there with a number of people from the accounting organisations, and a whole lot of other people, and I looked at what the ATO was proposing 10 days after the end of the month, and I said, "This is crazy." I expected that from that workshop and where the ATO has started to discuss what they were doing, that there'd be some push back from the accounting organisations, from the CA's, the CPA's ... Everybody else involved in that workshop. I didn't see anything.

And we started to look at it and we started to look at the requirements and what the ATO wanted to do, and at the same time the ATO was still having problems with their own systems, and we said, "Look, this is just crazy." It was crazy, we thought, in two respects. We thought, firstly, it was nutty that every single balance of every single person who in an SMSF has to report. And by the way, I still think that's crazy from the large funds. I don't understand why we're reporting balances for people who've got $600,000. Why are we reporting transactions? They are never going to get to the balance cap.

And by the way, the only reason the ATO wants the reporting is because they are required by law, once somebody gets to or near the balance cap, to tell the trustees that

they're getting to the balance cap. So they've got to do a notification, they say they can't do it, or they said they couldn't do it, unless they had every single balance for every single person. And we said, "No. That's no ..."

A million dollars is a reasonable position as a carve out and I think that was the original suggestion that we had at the first meeting we had with them, which was back in ... Also in early August. Then came the whole issue of reporting and, really it became evident that trying to report 10 days after the end of the month was crazy. You couldn't value the funds, you couldn't work out commutations, you couldn't work out new pensions. You couldn't do all the stuff that they wanted done with any degree of certainty 10 days after the end of the month.

Aaron Dunn: And I guess, from there, it was also ... Professionals were just up to their eyeballs in work

Ron Lesh: CGT resets….

Aaron Dunn: Yeah, CGT resets. $1.6m (TBC) being able to comply. Put aside the lack of robustness that we've seen in infrastructure, which is obviously deferred lodgements, et cetera, et cetera. So there was a real stretch on resources within the tax practitioner land, and then to load on top of it, this 10 day time frame where they're all going, "this practically is impossible to try and deliver on..."

Ron Lesh: 100% correct. And that was the point that we made initially to the ATO. We said, "Look. If you want the regular reporting, we understand the problems that you guys have and what you need to do, but you can't expect people to do this sort of stuff because they're just not able to do it in 10 days." So we said to them, "Look. Quarterly is what you need to go to at least."

Aaron Dunn: As a minimum.

Ron Lesh: As a minimum. And 28 days after the end of the quarter, you get people to actually have time to prepare what you need. And what we said to the ATO was, there's two sides to this. Firstly, going from monthly to quarterly, there was a huge difference in costs for the SMSF trustee. Because if you've got an account which has got 100 funds, and he has to have a look over his hundred funds and see, "Who do I need to report for every quarter?" If he's got to do it every month, he's doing it 4 times more, 5 times more per year. And it's just crazy.

So we said, "Quarterly's a good result." And we said, "That should be permanent." Somebody at one of the meetings we were at, and I won't mention who, came up with a brain wave of, "Why don't we make this a transitional provision?" And I sort of said to the ATO, "Look. I don't think it's smart that this is transitional. You need to give people certainty, and you're not giving people certainty. And this is one of the other issues with it. Part of our campaign, and part of the things that we did, was we set up a petition on causes.com. Which was aimed at the Assistant Treasurer, Kelly O'Dwyer, and also aimed at the Tax Commissioner, Chris Jordan. So we were sure that their publicity machines would pick up the fact that there was this petition out there asking them to do this and talking about what we're doing.

We found out in the end that the whole process of where we got to, in some respects, we did have quite a bit of help from the minister's office. And I was at a AFA conference a few ... Probably a month ago now. And as Kelly O'Dwyer was walking past me, and she knows me, she said to me, "Oh, we fixed your problem." So it was great to hear it, I said, "Really? Okay. That's fantastic. Which problem exactly have you fixed?" Anyway, so I did speak to somebody later in their office and they explained to me exactly what

they'd gone through. And then part of the reason that we got to this $1 million especially, was the representations that the minister's office made to the ATO and said, "Look, this is crazy. Why are we doing this? Why are we collecting this?"

So with the help of, I suppose, both the minister's office, our own representations putting a bit of pressure on the ATO, meeting with the ATO, giving them feedback every time they came up with a suggestion, and I can tell you, there were a few others in between the time of coming up with their position paper, giving them feedback on what we thought it should be. So it was a process that started sort of, late July. And went on until the time that position paper came out, which was in ... I think it was late August, early September.

Aaron Dunn: Yeah, we went through that consultation process. So I guess what we now have, is this permanency around quarterly reporting, but it is only going to impact individuals who have a total superannuation balance in excess of the $1 million dollars. So that is a great outcome which is suggesting that we're going to see a reduction to about 85% of the SMSF population being caught up in this process on a regular basis.

Ron Lesh: 100% correct. And we did some numbers for the tax office, because we know that about 60% of self-managed fund members, are in pension mode. And from some of the figures that were floating around, there would be two or three events per pension member, per year. If you do that over 60% of self-managed super funds, the number of events that were going to be reported were in the hundreds of thousands. So when we did the calculations and we showed that to the ATO, we said, "Really? Do you want to be dealing with all this data?" That was the other side that came out of it. Most of which is useless because people are never going to get there.

Aaron Dunn: Yeah, and the infrastructure, in theory, isn't there at this stage. When we're talking about having to do paper reforms, manual inputting of online forms, sure there's a bulk data exchange, but you wouldn't say it's the most fancy of ways in which to be reporting to the ATO. So we don't really have infrastructure in place at the moment, in particular pushing through to the ATO, that would enable a greater level of automation to deal with that high level of volume.

Ron Lesh: Correct. And that was one of the other things that we did say to the ATO, is, "look, it's wonderful to want to do all this, but you need systems." And their whole idea is that this will come into the PLS system or the SBR2 system, but it won't be available until, really, the first quarter in next financial year. So we're talking September 2018, they're going to have this available for us to actually lodge through that system. Up 'til then, it's using either the flat file or the tax return to give the ATO information.

Aaron Dunn: Yeah, which is somewhat almost going backwards.

Ron Lesh: Correct.

Aaron Dunn: Quite a bit of time now when we think of just how far the industry's come when we're sort of approaching half of the SMSF industry is now being done on cloud-based technology.

Ron Lesh: Yes. And more than that is being lodged electronically. I think it would be over 90% of returns.

Aaron Dunn: Yeah, absolutely, it would be.

Ron Lesh: Because the only way that you can lodge a return for a self-claimed super fund is either through a specialised software package or a tax software package. Or on paper. So there's no option for a trustee to go in and do it.

Aaron Dunn: Yeah, so let's have a quick chat ... So the million dollar carve out here, then is going to effectively align the reporting of events during the year, in line with the due date of the SMSF returns?

Ron Lesh: Correct.

Aaron Dunn: So that in itself will mean that we still have to use our TBAR to report that information, or are we going to see that maybe fall into the SMSF annual return, do you think?

Ron Lesh: Look, my feeling is that it will fall into the return. It may be a TBAR is the schedule to the return, and I think it's going to be something like that. I don't think the ATO's worked out exactly that processes yet. But we'll see that once we start to see the PLS specifications for 2018, as to where that's going to move to.

Aaron Dunn: Yeah, so I was just going to say, the other thing that I found quite interesting, and you mentioned this before, is this real requirement of certainty. And this time where we want certainty, and we want to make sure that this is permanent for as long as we possibly can.

Ron Lesh: Yeah. Just going back one point. From reading what the ATO have been saying, and they haven't really been clear, there may not be a need to report the TBAR stuff through the annual return. If your balance is less than a million, then you've really got nothing to report apart from the balance.

Aaron Dunn: Okay, yes.

Ron Lesh: If your balance is over a million, you fall into the TBAR routine. Pick TBAR processes anyway. So my gut feeling is they may not even change a lot of it because as long as the balance is under a million, they're not overly worried about it.

Aaron Dunn: Okay, yeah. And I guess the devil will be in the detail.

Ron Lesh: Which we won't know until next year.

Aaron Dunn: Yeah, and we've seen from what they've said that ... So an SMSF whose members' total superannuation balance are less than one million dollars, can choose to report events which impact their members' transfer balances at the same time that the SMSF lodges its SMSF annual returns. So I guess the question is -

Ron Lesh: Okay, so maybe they're saying is, "Maybe they will."

Aaron Dunn: Yeah, so is it using TBAR, is it using annual return? I think ... And I know ultimately, we'll find out that as we get along because we do, of course importantly, still have our initial concession, which means we don't have to lodge anything until 1 July 2018 anyway.

Ron Lesh: Correct. Yes.

Aaron Dunn: So back to my question, we were talking about this ... appeasing the industry and giving us some certainty and so forth. The ATO has said that they see this as arguably being a permanent fixture to the way in which SMSFs are reporting, so they have noted in here that should further change be considered, they'd obviously go into consultation. So I think one thing we should acknowledge is that the SMSF, the regulation of the sector and the way in which the ATO consults is they listen.

Ron Lesh: Certainly, I would say that the process that we've been through with them over the past 5 or 6 months has been pretty good. They have listened. From initially trying to bulldoze

this whole process through, they've come back a long way from where they were. They've listened to what the industry have said and they have come up with something that's workable. So, I think if they're going to make changes down the road, it will again be a process of consultation. The big problem that the SMSF industry has is that we still ... while we have, probably 50% of self-managed super funds in the cloud, the other 50% aren't. And there's still 10 to 15% that aren't using any specialised software at all. So their ability to report these things is going to be almost impossible. It's going to be a process that has to be done manually. So, I suppose as time goes on, we'll see where those figures sit in the industry to know what the ATO's going to do.

One of the interesting things that has come out recently is that we've still got ... It was originally 47,000, still 40,000 delinquent funds.

Aaron Dunn: Yeah, correct.

Ron Lesh: Some that haven't lodged returns for either one year or two years. And I think the ATO is in the process of trying to clean that up, it's looking at it on the basis, not only of the funds, but also the tax (practitioner).

Aaron Dunn: The practitioner.

Ron Lesh: The practitioners, and starting to look at how they can get the -

Aaron Dunn: Engage with them to get -

Ron Lesh: And get them to comply. Yeah.

So they're making the right noises, let's put it that way.

Aaron Dunn: Yeah. And I've been involved previously with the ATO around the wind-up process and some of that was flagged some time ago that maybe there are a whole range of funds in there that actually don't exist. So people have washed their hands of them, poor investments, whatever the case. But it is a part of the sector that needs to be cleaned up. So I guess the cynic in me here, for a second, would say, well, is this permanency permanent? Or is this permanency really here because it's an acknowledgment of the stability of the ATO's systems, the fact that there's a huge burden and work load around stuff, or is this something ... As in, once we get ... If we're crystal ball it three or four years down the track, we look at a larger percentage of the sector being cloud based, the ability to push stuff through, PLS and so forth, enabling that to be more seamless. Could that be the time where the industry actually revisits that as well? So I guess, what are your thoughts on that?

Ron Lesh: Look, it's possible. I think for the moment we can take the ATO and what they've said, that they're not going change it. Certainly not in -

Aaron Dunn: The immediate term anyway.

Ron Lesh: In the immediate term.

Aaron Dunn: So we rest easy in that respect.

Ron Lesh: Yeah. We can rest easy in that respect. There was talk originally of it being changed after two years, all of that has disappeared from what the ATO's final position was. And I will say, we said to them, "Look. You've got to give practitioners certainty. You can't say you're going change it in two years. You're still not going have a huge percentage like, still going 80 or 90% on specialised software, being able to do this stuff. So until

you get to those sort of percentages, and you've got people doing work more regularly, because even the large administrators are still not doing stuff more regularly, then you're not going to be in a position to be able to do any better than what we are. There's always utopia, you'd always like to see 100% of self-managed super funds using specialised software reporting monthly or daily or whatever, but we're just a very, very long way away."

Aaron Dunn: Yeah, no. I couldn't agree more there. So, are there any risks that you can see off the bay that surely ... There's an enormous amount of benefit, both in terms of cost and time saving across the trustees and their professions themselves, but what are some of the risks that come about with the way in which this position is being carved out here?

Ron Lesh: The only risk that I see, and it's less of a risk now, is that somebody moves very quickly from that $1 million to the $1.6 million and the ATO doesn't know about it, and the trustee doesn't know about it and therefore they can't advise them that they might be hitting the cap or get over the cap.

Aaron Dunn: So they're in an excess position and therefore the liability for excess transfer balance is exacerbated.

Ron Lesh: Correct. So that's what the main risk of the whole process is. The likelihood of that happening with the lower limit of what people can put in, even if ... We still don't know if this housing thing is going to go through.

Aaron Dunn: Yep, downsizer (Contributions).

Ron Lesh: Downsizing. If you had somebody who downsized and put in $300k in the same period, you could get ... And they had a balance of $950,000 before, they could get very close to the $1.6 million. So you do have that. But that, I think, is the biggest risk of the exercise. I think in terms of percentage terms, it's probably not a huge, huge risk.

Aaron Dunn: Thing to worry about. Yep.

Ron Lesh: So that's certainly a risk. The other main risk I see is where people just don't know where their balances are. And only will know at the end of the year and don't really monitor it during the year. Because things can happen to push balances up. They may have a security in there where they've got $150,000 invested in something and suddenly that goes from 10 cents to a dollar, and they are getting close to the cap with the member's balance -

Aaron Dunn: Just a funny thing that's coming to my mind, do you think we might see individuals as they push sort of the $950,000 and they're not sure, if they got ability to maybe withdraw a little bit out so that they keep under the million dollars, and then they may tip it back in on the 1st of July so that they fall out of the range?

Ron Lesh: May become a strategy!

Aaron Dunn: May become a strategy? (laughing)

Ron Lesh: Yes. It may become a strategy. I don't know how much benefit there is in doing that.

Aaron Dunn: Yeah, no, absolutely. It's just something that come to mind. I guess, the final question is, for a practitioner here, it is going to put a bit more focus on client segmentation. And therefore, being very clear, as businesses contemplate moving from annual reporting to a more regular process, that you're going to have to quite clearly keep on top of events

based reporting for those clients above a $1 million dollars verses those that aren't. So segmentation is going to become a critical piece in this process.

Ron Lesh: 100% correct. Yeah. I agree with that and I think with our software, one of the things we've tried to do is make that really easy for someone to see when they're coming in, so you can see straight away how many you've got over $1.6m. You can click on a button, it shows you who. All that sort of stuff. That sort of information on a more regular basis is going to become very important.

Aaron Dunn: And having the tools there to be able to -

Ron Lesh: And having the tools to do it. One of the discussions we've been having a bit recently is, I suppose, about why have people not been moving to more regular reporting? Why have they not been moving to the cloud? What's stopping people doing it? And some people say cost, but I don't think cost is actually the key issue. I think the key issue is that it changes the way that the practitioner, whoever that is, be it an accountant or an advisor or an administrator, deals with the trustee. Because suddenly the trustee wants information about what's happened today, not what's happened 6 months ago. And they want advice on what they should do tomorrow, today. And unless the advisor or whoever is administering the fund is licenced can give them that advice, it puts them in a very difficult position.

So there's going to be a whole lot of changes, I think in the way a lot of this done. We're seeing more products come onto the market now which are doing effectively well to manage advice. And maybe that's a solution going forward. Maybe more practitioners need to look at having someone either in their office, or as a partner with them, who handles those sort of issues for them because they're not able to talk about them at the moment, and it's a problem.

Aaron Dunn: Yeah, and being very clear between that unlicensed process and the licenced process, and where it literally just started that all rolling our self around dealing with those two key elements. So it's fine to be able to give your clients your pension documents and put a nice little cover letter around that, but if you're not licenced you need to be very clear in the information that you provided them, in accordance with the additional documentation. And that's one of the bits now that we're starting to do a lot of focus on our self, to deal with. But going back to your point around how a practitioner's dealing with it, I think not having a clearly defined strategy in the business, how they're going to change work flow, and too often individuals end up going from getting 18 months' worth of work done, and then they go, "Oh. We've got it up to speed," but then they haven't actually built a process to then deal with the monthly, quarterly, whatever it is so ...

Ron Lesh: Yes. Installing software to do this on a monthly or a more regular basis is not just a matter of, "Here's a bit of software." There's a whole lot of processes and things around it, and the smart firms are all seeing, "Well, hang on a minute. It's not just, 'plonk this in'. I've got to rethink the way that I've done things, the way that I'm collecting data, the way that I'm dealing with my clients, all this sort of stuff." So it really changes the whole process. Now from the trustee's perspective, I reckon that's fantastic. Because they are getting much more information, much more often, much better information than they were getting before. From a practitioner's perspective, hard work. And getting the right people in place.

Aaron Dunn: Yeah, but it's the value articulation. If you can get that right, you're providing more tools, more information to your client. I still struggle to see how individuals feel like they're being challenged by their clients on a changing model. Where I don't see, unnecessarily, it's going to be an increase in their fee because the technology's actually driving the ability to ... Should be driving to make it more competitive. So that'd be a topic for another

day. So thank you Ron, I appreciate you dropping in to have that conversation. Much appreciated. If you want to find out a little bit more about the events based reporting, the ATO did provide a media release, we'll include that in the bottom of the blog post. Any final comments that you'd like to make?

Ron Lesh: No, that's all, thank you very much.

Aaron Dunn: All good? Very much, thank you for your time, and I look forward to you joining me for our next week's podcast. Thanks again for being a part of today's session and I look forward to speaking with you in the near future. Bye for now.

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