
March 19, 2020

BULLETIN

REVENUE ANTICIPATION BORROWING – BEING PREPARED

This is generally the time when local governments are busy finalizing consultation with the public in relation to their financial plan and tax rates bylaws, adopting those bylaws, and preparing for the upcoming issuance of tax notices and collection of taxes.

With the impact of COVID-19 on local governments' ability to engage with the public in relation to financial plan and tax rates bylaws, and to hold open meetings to adopt such bylaws, local governments must be prepared for circumstances where 2020 annual property taxes have not been paid as normally expected in early July.

Section 177 of the *Community Charter* authorizes municipalities to borrow in anticipation of the current year's revenue as follows:

177 (1) A council may, by bylaw, provide for the borrowing of money that may be necessary to

(a) meet current lawful expenditures, and

(b) pay amounts required to meet the municipality's taxing obligations in relation to another local government or other public body.

(2) The debt outstanding under this section must not exceed the total of

(a) the unpaid taxes for all purposes imposed during the current year, and

(b) the money remaining due from other governments.

(3) Before the adoption of the annual property tax bylaw in any year, the taxes in that year are deemed to be 75% of all property taxes imposed for all purposes in the preceding year.

(4) When collected, revenue from property taxes must be used as necessary to repay money borrowed under this section.

It is important to note that, under section 177, if a municipality has not yet adopted its 2020 financial plan and tax rates bylaws, the amount that the municipality is authorized to borrow under the section is limited to 75% of all property taxes imposed for all purposes in the 2019.

Section 404 of the *Local Government Act* authorizes regional districts to borrow in anticipation of the current year's revenue as follows:

404 (1) A board may, by bylaw, provide for the borrowing of money that may be necessary to meet its current lawful expenditures before its revenue, from all sources, to pay for those expenditures has been received.

(2) Money borrowed under this section must be repaid when the anticipated revenue with respect to which the borrowing was authorized is received.

It is important to note that section 404 of the *Local Government Act* does not appear to authorize regional districts to borrow in anticipation of 2020 revenues on the basis of the amount of property taxes imposed in 2019 in the same manner that section 177 of the *Community Charter* authorizes municipalities to do.

We strongly recommend that all local governments consider the need to adopt revenue anticipation borrowing bylaws to ensure the ability to continue operations, and take immediate steps to adopt such bylaws in the event that such borrowing becomes necessary.

Should you require any further information in respect of revenue anticipation borrowing, please do not hesitate to contact any of the Partners.

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