



Date: May 30, 2020

To all Municipal CFOs:

On April 23, 2020 the Provincial Government sent out Circular 20-09 to all municipalities regarding 2020 financial measures to address the Covid-19 situation.

Pursuant to Circular 20-09, the Province recently issued [Ministerial Order M159](#) (Order M159) under section 10 of the *Emergency Program Act* (EPA).

The contents of Order M159 address all the measures in the April 23, 2020 circular except for the delay in the property tax penalty date (to October 1, 2020) and the delayed remittance of School and Police Tax. These two measures will be done by alternative means. Once completed, municipalities will be notified.

This backgrounder provides additional context to the measures covered under Order M159.

The relevant sections of Order M159 for municipalities are as follows:

- Section 3 – Borrowing from Reserve Funds
- Sections 15 & 18 – Delay Tax Sale & Extend Redemption Period
- Section 10 – Revenue Anticipation Borrowing
- Sections 20 & 22 – Financial Reporting

### **I. Section 3 of the Order --- Municipalities Borrowing from Statutory Reserve Funds**

In order to strengthen municipal cash position, the Province will allow borrowing from one or more reserve funds for operational purposes.

Any money borrowed from capital will need to be repaid within five years of the time of borrowing. Also, there will be no requirement to pay interest on interfund borrowing, though individual municipalities may choose to do so. This should help alleviate some short-term cash concerns by accessing cash and investment in capital reserves.

The borrowing of funds can only be done in calendar 2020. There is no established dollar limit on the borrowing; however, the borrowing is bound by the current-year budgeted expenditures and required remittances to other governments (i.e. municipalities remitting requisitions to regional districts and regional hospital districts).

The total 2020 borrowing from reserve funds must be fully repaid to the respective reserve funds used for the borrowing on or before December 31, 2025. There is no interest is payable on borrowing from reserve funds over the repayment period.

If the amount is not fully repaid by December 31, 2025, the municipality must include the repayment of outstanding borrowing in 2026 budget plus a penalty. The penalty will equal 5% of the outstanding reserve fund borrowing at December 31, 2025.

## **II. Sections 15 & 18 of the Order --- Municipalities Delay Tax Sale & Redemption Period**

The Province will enable municipalities, by bylaw, to delay the statutory date of property tax sales and/or redemption by one year. A municipality may choose to delay neither, one, or both the tax sale and redemption.

The delay of the tax sale and extension of the redemption period may be done by a single bylaw, or by two separate bylaws (one for tax sale and the other for redemption). A municipality cannot single out individual properties for delay of tax sale or extension of the redemption period. The municipality must provide this to all eligible properties or to none.

If a bylaw is **not** adopted in accordance with the terms of Order M159, the municipality must proceed with the 2020 tax sale in accordance with the *Local Government Act*, and redemption period for the 2019 tax sale will end in September 2020 (as is otherwise normal).

### **Regarding Tax Sale**

If the municipality elects to delay the tax sale for one year, the delinquent property owner will continue to carry the taxes as “delinquent” under s.246 of the *Community Charter*, including accruing interest on those delinquent taxes. On September 27, 2021, the municipality would conduct its normal 2021 tax sale on properties that became “delinquent” on December 31, 2020, and on properties with the delayed tax sales from 2020.

This discretion to extend tax sale by one year must be exercised by bylaw adopted on or before **August 31, 2020** (which is approximately one month before the statutory tax sale date). In this case, the delinquent taxes (as defined in s. 246 of the *Community Charter*) will continue to be carried as “delinquent” for a further year and will continue to accrue interest in accordance with s.246 of the *Community Charter*. The outstanding taxes and accrued interest will be included in the upset price for the 2021 tax sale.

**Within two weeks of the bylaw adoption**, council must send **notice** to each property owner with delinquent taxes. The notice must state that tax sale has be delayed for one year, and, unless paid at any time prior to the 2021 tax sale, the outstanding delinquent taxes for 2020 will remain as delinquent through the remainder of 2020 and 2021 (up to the 2021 tax sale date) and will continue to accrue interest.

If the tax sale is delayed, there will be no requirement for public notice of tax sale in 2020 (under s.647 of the *Local Government Act*) because there would be no tax sale. However, if it chooses, a municipality may do a public notice that there will be no tax sale in 2020.

In 2021, the delinquent portion of total taxes will equal the delinquent portion of 2020 taxes plus the unpaid taxes in arrear that become delinquent on December 31, 2020. If this delinquent portion of taxes remains unpaid in 2021, the property will go to tax sale on the last Monday of September 2021 (in accordance with s.645 of the *Local Government Act*).

### **Regarding Redemption**

For properties that went to tax sale in 2019, the redemption period concludes in September 2020. If a municipality decides, by bylaw, to extend this redemption period, it may do so for one year (to the date of September 27, 2021).

This discretion must be exercised by bylaw adopted on or before **August 31, 2020**, (approximately one-month before the end of the 2020 redemption period). Within two weeks from the adoption of the bylaw, the municipality must send both the original owner(s) of the property and the tax sale purchaser a notice of the one-year extension of the redemption period.

While not required, it would be prudent for the municipality to send a notice to the Land Title Office of the extension of the redemption period and a list of the properties that are included in the redemption extension.

### **III. Section 10 of the Order - Extend Municipal Revenue Anticipation Borrowing**

Under s. 177 of the *Community Charter*, municipalities may utilize revenue anticipation borrowing to meet current-year lawful expenditures.

Under the Order M159, the Province will allow municipalities to carry any outstanding balance of revenue anticipation borrowing at the end to 2020 into 2021. In 2021, municipalities will be allowed to do new revenue anticipation borrowing in addition to the balance carried over from 2020.

The unpaid balance from revenue anticipation borrowing incurred in 2020 will not impact the amount of revenue anticipation borrowing authorized for 2021. This will enable municipalities to continue to engage in revenue anticipation borrowing, despite carrying over such debt from 2020.

The balance of revenue anticipation borrowing carried into 2021 must be fully repaid by the end of the 2021 Calendar Year to ensure timely resolution of the debt (December 31, 2021).

### **IV. Sections 20 & 22 of the Order – Delayed Financial Reporting**

Currently, under s. 98(1) of the *Community Charter*, municipalities are required to prepare and make public an **annual report by June 30, 2020**. And, under s. 2 of the *Financial Information Act*, municipalities must complete a statement of financial information (or **SOFI Report**) **also by June 30, 2020**.

Order M159 will allow municipalities to delay both these dates to **August 31, 2020**. Note, Order M159 is only moving the deadlines; these reports must still be prepared and adopted in accordance with statutory requirements.

In addition, in Circular 20-09, the Province indicated it would not be enforcing the May 15, 2020 deadline for **audited financial statements** and **Local Government Data Entry System (LGDE) Reports**. The deadline for these reports is also extended to **August 31, 2020**. If municipalities can do the reports earlier, the Province encourages that they do so.

As annual tax information is necessary to determine grants-in-lieu of taxes. If possible, the Province encourages timely completion of the **LGDE Tax report** in early summer (June 2020). If that is not possible, the Province encourages municipalities to submit their tax bylaws to the Ministry of Municipal Affairs and Housing (through the LGDE System), so, if necessary, ministry staff can complete the LGDE Tax Report.

### **Further Information**

For additional information, please contact:

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