Commission municipale Québec

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Umbrella Loan By-laws: Not as Complex as They Seem

A municipality may need to incur capital expenditures over more than one year to provide activities and services to its citizens. If it lacks the necessary funds, it will need to adopt a loan by-law.

It is critical to properly identify the needs and determine the funding required before adopting a loan by-law, whether it is a standard loan by-law or one whose purpose is described in general terms, commonly referred to as an "umbrella loan by-law."

To ensure that municipalities comply with the legal and regulatory requirements for umbrella loan by-laws, the Commission municipale du Québec's Vice-présidence à la vérification carried out a compliance audit of three municipalities with populations under 10,000. The audit report was published in December 2023. Here are some of the requirements for this type of loan by-law.

Special features of umbrella loan by-laws

The procedure for adopting an umbrella loan by-law is the same as for a standard loan by-law. There is, however, a cap on loans that can be decreed through this type of by-law over the course of a fiscal year. The amount cannot exceed the greater of$100,000 or 0.25% of the municipality's standardized property value.

Unlike a standard loan by-law, when a municipality adopts an umbrella loan by-law, it does not need to specify where the work will be done or describe the property it will acquire. It does not need to include a detailed cost estimate, either. That said, the municipality will need to specify these expenditures later, when they are incurred.

Another feature of the umbrella loan by-law is that the loan must be repaid by the entire population through a special tax based on property value, or by appropriation of general revenues by the municipality. This means, for example, that the municipality cannot impose the tax on a specific sector.

Use of funds

Before starting any work or acquiring any property, the municipality must properly decree the work or acquisition and ensure that the by-law is providing for a sufficient loan. Umbrella loan by-laws offer flexibility in this area, since a project is allowed to differ from what the municipality had planned when adopting the by-law, as long as the purpose of the by-law does not change. For example, if the by-law covers road work, the municipality could add a sidewalk to a project that initially only involved asphalting.

It's critical for municipalities to keep track of their loan by-laws. Among other things, this involves making sure those by-laws are amended if they no longer reflect their wishes. A by-law must be amended (through another by-law) when the tax burden on taxpayers is increased or when the purpose of the by-law is changed, particularly if a purpose is repealed.

Tax account information

Both umbrella and standard loan by-laws may include a special tax to repay the loan. Where applicable, when the time comes to impose this tax, the information relating to it must be presented separately on the tax bill, even if the tax applies to all taxpayers and is calculated on the basis of property value. A special tax cannot be included in the general property tax.

To find out more, see the report published in December 2023 (in French).