Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme

Executive Order No. 007

KPMG in Nigeria

January 2019

Background

His Excellency, President Muhammadu Buhari, GCFR, on 25 January 2019, signed the Executive Order No. 007 on *Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme* ("the Scheme"). The Scheme is for a period of 10 years from its commencement date.

The Scheme is a public-private partnership intervention that enables the Federal Government of Nigeria (FGN) to leverage private sector capital and efficiency for the construction, refurbishment and maintenance of critical road infrastructure in key economic areas in Nigeria.

Participation in the Scheme is open to every Nigerian company, acting on its own or in concert with other Nigerian companies, and institutional investors (hereafter referred to as "Participants") wishing to construct or refurbish any road identified and designated by the FGN as an "eligible road" under the Scheme.

Participants will be entitled to utilize the total cost, hereafter referred to as "Project Cost", incurred in the construction or refurbishment of an eligible road as a Tax Credit against their future Companies Income Tax (CIT) liability, until full cost recovery is achieved.

As an incentive, Participants will be granted a single non-taxable uplift[1] on Project Cost. The uplift will be included in the total Tax Credit available to each participant.

Unique features of the Scheme:

a) The Scheme guarantees Participants a minimum recovery of 100% of their Project Cost. This is a significant improvement on previous infrastructure development incentives that offered taxpayers limited cost recovery ranging between 30% - 70% of their investment.

b) Participants are permitted to act in concert (i.e., as a collective) to finance and oversee an eligible road project(s). Each Participant in the collective will be separately entitled to a Tax Credit in proportion to its financial contribution.

c) Tax Credits will be issued to Participants annually based on construction milestones achieved, and will become immediately available for use. This is another noteworthy distinction from previous infrastructure development incentives.

d) Participants may sell or transfer the whole or part of its unutilized Tax Credit to any interested party, subject to complying with protocols prescribed in the Scheme. This means that a Participant, who for any reason does not wish to utilize its Tax Credit, may easily recover its investment without recourse to the FGN.

e) The Scheme will be administered and implemented by the *Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme Management Committee*[2] ("the Committee"). The Committee, which will serve as a one-stop liaison office for the Scheme, is expected to reduce the administrative bottlenecks typically associated with dealing with multiple ministries/parastatals in obtaining approval of road projects.

KPMG Comments:

A strategic imperative for Economic Growth and Recovery in Nigeria is the development of road/ transportation infrastructure by leveraging private sector capital and capability. The ultimate objective is to encourage industrialization, improve productivity of and competitiveness in the manufacturing sector.

Road infrastructure has an enabler effect, either directly or indirectly, on most sectors of the economy – particularly the manufacturing sector. Currently, about 90% of passenger and freight movement across Nigeria is done by road. This implies that road transportation is quite integral to the growth and development of the economy. Unfortunately, budgetary allocation to road projects has repeatedly proven to be insufficient to meet road infrastructure demands. In 2018, for instance, the FGN allocated approximately 12% (about ₦344bn) of its planned capital expenditure for the year to the construction and rehabilitation of about twenty roads nationwide.

[1] The Uplift will be a percentage of the project cost. The percentage to be applied is Monetary Policy Rate plus 2%.

[2] The Committee comprises of top cadre personnel of various government ministries and parastatals such as the Federal Inland Revenue Service, Ministry of Power, Works and Housing, Budget Office, Bureau of Public Procurement, etc.

Presumably, it is the insufficient capacity to finance road projects from the budgetary allocations that had necessitated several Public Private Partnerships (PPP), including the Infrastructure Tax Relief introduced in 2012. While these programs have had their merits and recorded successes, the outcome of these initiatives have not necessarily matched the demands for road Infrastructure. It is, indeed, arguable that drawbacks of the past initiatives have contributed to their limited success. For instance, issues around full cost recovery, administrative bottlenecks, ease of participation, funding, etc. have had a deterrent effect on taxpayers would otherwise have participated in a PPP road project.

In theory, the Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme should address most of these limitations and encourage private sector participation in road development. With emphasis placed on ease of participation in the Scheme, the extent and timing of capital recovery and alternative methods for extracting the value of tax credits, it is expected that large corporates, particularly those whose operations are currently hindered by access to motorable roads required for evacuation of their products, will be encouraged to channel capital towards road development and refurbishment - both as corporate social responsibility and also with a view to eventually recovering their cost through tax credits.

This Executive Order presents a golden opportunity for manufacturing companies, particularly those operating around industrial clusters, hubs and trade zones to mobilise and direct capital towards the refurbishment of those roads, including feeder roads and highways, which are most critical to the movement of inventory and products, shortening supply lead times and optimizing the manufacturing supply chain. Likewise, corporates with large balance sheets, who have the ability to aggregate private sector capital and manage large projects efficiently, should see this Scheme as an opportunity to fast-track rehabilitation and provision of the much-needed road infrastructure in Nigeria.

On the part of the FGN, adequate road infrastructure should improve the conditions for business operations in Nigeria, increase business profitability, enhance employment and, by extension, tax revenue in the long run. There is also the opportunity for the FGN to redirect funds that ought to be used for road projects towards the development of other sectors of the economy. In our view, the potential upfront diminution of tax revenue to the FGN should be more than adequately compensated for by a short to medium term improved performance of the economy and the overall long term multiplier effect.

On the whole, we are optimistic that the Scheme will be instrumental to closing the widening infrastructure deficit in Nigeria and promoting the overall growth and development of the economy.

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