Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme

For a deeper discussion, please contact any member of our team below or your usual contact with PwC Nigeria:

Taiwo Oyedele
+234 1 271 1700 Ext 50002
taiwo.oyedele@pwc.com

Folajimi Akinla
+234 1 271 1700 Ext 52008
folajimi.akinla@pwc.com

Dozie Adibe
+234 1 271 1700 Ext 54060
dozie.adibe@pwc.com

Background

President Muhammadu Buhari on Friday January 25, 2019, signed the Executive Order No. 007 of 2019 ("the Order"), on Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme ("the Scheme").

The Scheme seeks to encourage private sector participation in road development in the country by permitting private companies and investors to fund the construction and refurbishment of major road projects in the six geo-political zones of the country.

According to the President, the Scheme will enable companies that are willing and able to spend their own funds on constructing roads to their factories or farms, recover their full construction costs as tax credits, over a period.

Highlights of the Scheme

1. The Scheme is for a period of 10 years from the commencement date of the Order.
2. The Road Infrastructure Refurbishment and Development Tax Credit Scheme Management Committee ("the Committee") will administer and implement the Scheme.
3. A participant in the Scheme can be any company registered in Nigeria, a pool of companies or institutional investors.
4. Participants in the Scheme are entitled to recover the cost incurred by them in the construction or refurbishment of eligible roads as credit against Companies Income Tax ("CIT") payable.
5. Participants are also entitled to a single uplift, equivalent to the CBN Monetary Policy Rate plus 2% of the project cost. This uplift will not be taxable in the hand of the participant.
6. The Committee will issue tax credit certificates to participants annually, in proportion to the project costs incurred by them in that year. The project costs will be evidenced by a certification of work done issued by the relevant regulatory authority.
7. The tax credit can be carried forward to subsequent years until it is fully utilised.
8. A Participant may sell or transfer its tax credit to other companies, as a form of security or otherwise.

Some grey areas

The Order raises a number of key questions:

- Are eligible roads limited only to federal roads given that states and local governments are entitled to a share of CIT revenue?
- Is borrowing cost eligible as part of project cost? It appears the intention of the uplift is to compensate for borrowing cost or time value of money spent but it does not go far enough as it is a single uplift while respective tax credit claim could take several years.
- How will the 10 year validity be determined? Will projects started and still in progress by year 10 be eligible? And untilised tax credits?
- In the event that a project or project cost is not approved, how will the associated cost be treated? In practice FIRS takes the rebuttable view that unapproved costs are also not allowable for tax purposes.

Takeaway

The Scheme is reflective of government's desire to partner with the private sector to mobilise capital for infrastructure development.

The success of the Scheme will depend on its attractiveness to the targeted private sector participants and whether government is able to win their trust including assurances that the Scheme will not be prone to unexpected policy changes either by current or subsequent administrations.