<u>ADVANCED TAXATION – SOLUTIONS TO PILOT QUESTIONS</u>

SUGGESTED SOLUTION TO QUESTION 1

	Gberigbe Nigeria Limited				
	Computation of tax liabilities for 2019 year of assessment				
(i)				N'000	N'000
	Profit for the year				195,000
	Add back disallowed Expenses:				
	Depreciation			85,000	
	Refund to Managing Director's tenant			650	
	Foreign exchange loss on transactions			7,500	
	Write off of fund misappropriated by employee			1,100	
	Stamp duty on increase in share capital			850	
	Penalty for late filing of returns to Delta State			500	
	IFRS impairment adjustment			2,500	
					98,100
	Deduct Non Taxable Income:				
	Interest on domiciliary accounts			10,000	
	Personal rental income of Managing Director			12,500	
	Interest on foreign placement repatriated (60% of ₦17,500,000)			10,500	
	Profit on sale of non-current asset			5,000	
					(38,000)
	Adjusted/Assessable Profit				255,100
	Add: balancing Charge (Working 1)				5,000
					260,100
	Deduct :Unrelieved loss brought forward			15,250	
	Relieved			(15,250)	(15,250)
	Unrelieved loss carried forward			Nil	
					244,850
	Deduct Capital allowances:				
	Unabsorbed brought forward			12,500	
	Capital allowance for the year (Working 2)			23,967	
	Total Capital allowance			36,467	
	Absorbed capital allowance			(36,467)	(36,467)
	Unabsorbed carried forward			Nil	
	Total Profit				208,383
	Company Income Tax Payable @ 30%				62,515
	Tertiary education tax payable @ 2% of Assessable profit				5,102

	Workings				
1	Computation of Balancing Charge:				N
	Sale Proceeds of 5 Motor Vehicle purchased in 2012 Accounting year				5,000,050
	Deduct Tax written down value at disposal in 2018 accounting year				50
	(i.e. Initial and annual allowance rate of 50% and 25% respectively)				
	Balancing Charge				5,000,000

	Workings				
2	Computation of Capital Allowances for the year:				
a	Existing Assets	N	N	N	N
	Asset Class	Plant & Machinery	Furniture & Fittings	Motor Vehicle	Total
	Year of Purchase	2015	2015	2015	
	Tax Life (Years)	4	5	4	
	Expired Tax Life	3	3	3	
	Unexpired Tax Life	1	2	1	
	Tax Written down value	4,000,000	7,000,000	6,000,000	
	Annual Allowance	3,999,990	3,500,000	5,999,990	13,499,980
	Tax Written down value carried forward to 2020	10	3,500,000	10	
b	Newly Purchased Assets	N	N	N	N
	Cost	3,000,000	1,200,000	12,500,000	
	Initial Allowance (i.e.Cost x Initial allowance rate)	1,500,000	300,000	6,250,000	8,050,000
	Annual Allowance (i.e. Cost less initial allowance divided tax life)	375,000	180,000	1,562,500	2,117,500
	Investment Allowance (i.e. Investment allowance rate x cost)	300,000	-	-	300,000
	Tax Written down value carried forward to 2020	1,125,000	720,000	4,687,500	
	Total Capital allowance for the year				23,967,480

	Minimum Tax Computation				
a	The Highest of :			N	N
	0.5% of Gross Profit		0.5% x N400,000,000	2,000,000	2,000,000
	0.5% of Net Assets		0.5% x N250,000,000	1,250,000	
	0.25% of Paid up Share Capital		0.25% x N350,000,000	875,000	
	0.25% of Turnover of N500,000		0.25% x N500,000	1,250	
	PLUS				
b	0.125% of Turnover in excess of N500,000				
	0.125% (N850,000,000 - N500,000)		0.125% x N849,500,000		1,061,875
	Mininum Tax Payable (a + b)				3,061,875

Note :

1. Given that the income tax computed based on normal assessment is greater than minimum tax liability, the income tax for 2019 year of assessment will not be based on minimum tax.
2. The defalcation by the Chief Accountant is a disallowed expense. If it was carried out by a junior staff, such as accounts clerk, it would have been an allowable expense.

Computation Income Tax Payable based on Dividend				₦
Dividend paid				120,000,000
Income Tax @ 30%				36,000,000

Note : Given that the income tax computed based on normal assessment is greater than dividend tax, the income tax for 2019 year of assessment will not be based on dividend tax.

(ii)

25 May 2019

Managing Director
Gberigbe Nigeria Limited
22, Benson Street, Ikorodu
Lagos State

Dear Sir,

2019 Year of Assessment Corporate Tax Computations

We refer to the meeting between you and our Managing Partner and the information obtained from your Chief Finance Officer with respect to the above subject.

We wish to inform you that we have computed the tax liabilities of your company for 2019 year of assessment based on the records provided and in line with the provisions of the relevant Nigerian tax laws.

Please find below the summary of the computed income taxes which details are attached to this letter for ease of reference and review:

Companies income tax based on normal assessment - ₦62,515,000
Companies income tax based on minimum tax – ₦3,061,875
Companies income tax based on dividend paid – ₦36,000,000

To comply with the provisions of the Nigerian tax laws, your company is expected to pay the highest of the above which is ₦62,515,000. Therefore, the income tax payable for 2019 year of assessment should be ₦62,515,000

In addition, we have computed the tertiary education tax and the amount due for payment is ₦5,102,000

As an on-going company, your company is expected to file 2019 corporate tax returns for 2019 year of assessment with Federal Inland Revenue Service not later than 30 June 2019 since your financial year end is 31 December .

To file the returns for 2019 year of assessment, your company is expected to submit the following documents:

- A letter forwarding the returns to the tax office;
- 2018 Audited financial statements of the company;
- 2019 year of assessment Income and tertiary education tax computation;
- Capital allowances and balancing charge computation;
- Completed and duly signed self-assessment forms; and
- Evidence of direct payment of computed income and tertiary education tax.

Please do not hesitate to contact the undersigned for further clarification on the subject.

We thank you for the interest shown in our firm and look forward to continued good business relationship.

Yours faithfully,
For : ABC Tax Consultants

Ken Mustapha
Senior Manager

(iii)

According to Section 19 of Companies Income Tax Act, where a dividend is paid out of profit on which no tax is payable due to no total profit, or total profit which is less than the amount of dividend paid, the company paying the dividend shall be charged to tax at the rate of 30% as if the dividend is the total profit of the company for the year of assessment to which the accounts out of which the dividends is deducted relates.

SUGGESTED SOLUTION TO QUESTION 2

(a)

Midas Touch Nigeria Plc					
Computation of tax liabilities for 2017 year of assessment					
	UK operation		Nigeria operation		Global operation
	N	N	N	N	N
Net profit per account		3,082,000		5,214,000	8,296,000
Add back :disallowed expenses:					
Donation to clubs	-		750,000		750,000
Loss incurred in 2015 financial year	850,000		-		850,000
Depreciation	700,000		1,500,000		2,200,000
Allowance for bad debt	480,000		950,000		1,430,000
Foreign exchange loss provision	735,000		-		735,000
Total disallowed expenses		2,765,000		3,200,000	5,965,000
Adjusted/Assessable Profit		5,847,000		8,414,000	14,261,000
Deduct Capital allowances :					
Initial	-		520,000		
Annual	375,000		250,000		
Total Capital allowance	375,000		770,000		
Absorbed/Relieved	(375,000)	(375,000)	(770,000)	(770,000)	(1,145,000)
Unrelieved Capital allowance c/f	Nil		Nil		
Total Profit		5,472,000		7,644,000	13,116,000
Company Income Tax Payable @ 30%		1,641,600		2,293,200	3,934,800
Deduct Double taxation relief (See Workings)					(820,800)
Net Compnay Income Tax Payable					3,114,000
Tertiary Education Tax Payable @ 2% of Global Assessable Profit					285,220

Workings					
Commonwealth Rate of Tax (CRT):					
	Tax Paid in UK	X	100		
	Total Profit in UK		1		
	N1,150,000	X	100		
	N5,472,000		1		
			21.02%		
Nigerian Tax :			30%		
Half Nigerian Tax Rate			15%		
Since Commonwealth Rate of Tax exceeds one half of Nigerian Tax rate, half of the Nigerian rate					
of tax is the applicable double taxation relief rate					
Also, Midas Touch Nigeria Plc is a resident company, therefore double taxation relief will be					
half Nigerian rate of tax multiply by the UK total profit					
	15% X N5,472,000				
	=	N820,800			

(b)

The Key tests in the taxation of non-residents include:

1) Fixed base of business – S. 11 (2)(a)

The fixed base of non-resident company is the place from where it carries on its business or trade in Nigeria. The fixed base must be easily identifiable and must possess some degree of permanence. A fixed base will include:

(i) Facilities such as a factory, an office, a branch, a mine or an oil well;

(ii) Activities such as building construction, assembly or installation; and

(iii) Furnishing of services in connection with the activities above.

It is important to note that the following cannot be considered as a fixed base:

- Facilities used solely for storage or display of goods or merchandise; and

- Facilities used solely for the collection of information.

For an individual, the profit of an individual carrying on a trade or business in Nigeria through a fixed base shall be the profit attributable to that fixed base, specifically:

-If the business is through a dependent agent, the profit attributable to that agent;
-If the business involves turnkey projects, the profit from that contract;or
-If the business is through related parties, the profit determined on arms length principle by the relevant tax authority.

2) Agency operation – S. 11 (2)(b)

Where a non-resident does not have a fixed base in Nigeria, but habitually operates a trade or business through a person in Nigeria:

(i) Authorised to conclude contracts on its behalf or on behalf of some other companies controlled by it or which has controlling interest in them; or

(ii) Who habitually maintains a stock of goods or merchandise in Nigeria from which deliveries are regularly made by a person on behalf of the company, then an agency arrangement is deemed to have arisen. The profit deemed to have been derived from Nigeria is the profit attributable to the business or trade or activities carried on through the agent.

There may be two types of agents:

- Independent agent
  An agent is regarded as possessing independent status when it deals on behalf of a non-resident company in its ordinary course of its own business. The implication of this arrangement is that the agent carries on its own trade along with his function as an agent of the non-resident company. Therefore, if the non-resident company stops trading in Nigeria, the independent agent is not materially affected as it will continue in its own business.

- Dependent agent
  This occurs when the agent devotes his activities wholly or almost wholly to the non-resident company. Where a dependent agent makes an isolated sale of goods on behalf of the principal, such a profit may not necessarily be subjected to tax in Nigeria. Where however the sale of goods on behalf of the principal is on a regular

basis, then the agent is deemed to trade habitually in the goods and the profit derived therefrom is chargeable to tax in Nigeria.

3) Turnkey projects – S. 11(2)(c)

This is a trade, business or activity which involves a single contract for the surveys, deliveries, installations and construction. For Nigerian income tax purposes, the profit from such a turnkey project is considered as derived from Nigeria. Consequently, it is fully chargeable to tax in Nigeria because no allowance would be given for the profit to be divided into Nigerian and offshore.

SUGGESTED SOLUTION TO QUESTION 3

	HIGHPOWER NIGERIA LIMITED		
a	Computation of Capital Gains		
	Disposal of building		N
	Sales Proceed		45,000,000.00
	Less cost of acquisition		35,000,000.00
	Capital gain		10,000,000.00
	Disposal of Equipment		
	Sales Proceed		14,000,000.00
	Less cost of acquisition		16,000,000.00
	Capital Loss		(2,000,000.00)
	Disposal of Generating Set		
	Sales Proceed		15,300,000.00
	Less cost of acquisition		13,500,000.00
	Capital gain		1,800,000.00
	Total Capital Gains		11,800,000.00

b	Computation of roll-over relief		
	Disposal of building	N	N
	Sales Proceed of old building	45,000,000.00	
	Less cost of old building	35,000,000.00	
	Capital gain		10,000,000.00
	Less: Rollover relief		
	Amount re-invested in the new building	45,000,000.00	
	Less cost of old building	35,000,000.00	
	Chargeable gain rolled over		(10,000,000.00)
	Disposal of Equipment	N	N
	Sales Proceed of old equipment	14,000,000.00	
	Less cost of acquisition	16,000,000.00	
	Capital Loss		(2,000,000.00)
	Disposal of Generating Set	N	N
	Sales Proceed old generating set	15,300,000.00	
	Less cost of acquisition	13,500,000.00	
	Capital gain		1,800,000.00
	Less: Rollover relief		
	Amount re-invested in the new set	13,000,000.00	
	Less cost of old set	13,500,000.00	
	Chargeable gain rolled over		Nil

c	Computation of Capital Gain Tax		
	Disposal of building		N
	Capital gain		10,000,000.00
	Chargeable gain rolled over		(10,000,000.00)
	Balance liable to CGT		Nil
	Capital gain @ 10%		Nil
	Disposal of Equipment		
	Capital Loss		(2,000,000.00)
	Capital gain @ 10%		Nil
	Disposal of Generating Set		
	Capital gain		1,800,000.00
	Chargeable gain rolled over		Nil
	Balance liable to CGT		1,800,000.00
	Capital gain @ 10%		180,000.00

SUGGESTED SOLUTION TO QUESTION 4

(a) Transfer pricing is the general term for the pricing of cross-border, intra-firm transactions between related parties. Transfer pricing therefore refers to the setting of prices for transactions between associated enterprises for the transfer of property or services.

The following are the objectives of Income Tax (Transfer Pricing) Regulations, 2018 in Nigeria:

i. To ensure that Nigerian tax authorities are able to tax on an appropriate taxable basis corresponding to the economic activities deployed by taxable persons in Nigeria, including their transactions and dealings with associated enterprises;
ii. To provide the tax authorities the tools to fight tax evasion through over- or under– pricing of controlled transactions between associated enterprises;
iii. To reduce the risk of economic double taxation ;

iv. To provide a level playing field between multinational enterprises and independent Enterprises doing business within Nigeria ; and
v. To provide taxable persons with certainty of transfer pricing treatment in Nigeria.

(b) Objectives of Income Tax (Country by Country Reporting) Regulations, 2018 in Nigeria are:

i. To provide tax authorities with information about Multinational Enterprises (MNEs) global activities, profits and taxes;
ii. To provide tax authorities with information to better assess international tax avoidance risks;
iii. To improve transparency of MNEs in their tax practices; and
iv. To prevent tax evasion or avoidance through base erosion and profit shifting.

(c) The following are the contents of a Transfer Pricing Disclosure form to be submitted by Companies to FIRS

i. Particulars of reporting company or entity – This will include the name, incorporation number, country of incorporation, country of tax residence, tax identification number, registered address, web address, details of contact person and principal business activities.
ii. Income from controlled transactions i.e. income from controlled persons in Nigeria and overseas.
iii. Costs of controlled transactions i.e. charges by connected persons in Nigeria and overseas.
iv. Summary of controlled transactions with connected persons
v. Transfer Pricing Methods and Documentation – This will include methods such as Comparable Uncontrolled Price method, Resale Price method, Cost-Plus method, Transaction Profit Split method, Transaction Net Margin Method..
vi. Basic financial information for reporting and group consolidation.
vii. Particulars of the person making the disclosure – This will include name, address, incorporation number, tax identification number, telephone number, email address, web address, designation, signature and date.
viii. Declaration to be completed by a Director or the Company Secretary.

(d) Transfer pricing methods includes:

i. Comparable uncontrolled price method (CUPM)

The comparable uncontrolled price method compares the price charged for transactions between associated enterprises (related parties) with prices charged for similar transactions between independent enterprises (unrelated parties) in comparable circumstances. If there is any difference between the two prices, this might be an indication that the transactions between the associated enterprises are not made at arm's length. For example, X Ltd and Y Ltd are members of the same group. If X Ltd sells a particular product to independent parties as well as to Y Ltd under similar circumstances, the prices charged for X Ltd's sales to independent parties can be compared with prices charged for X Ltd's sales to Y Ltd (internal comparable).

Similarly, if an independent party (M Ltd) sells to another independent party (N Ltd) the same product sold by X Ltd, the prices charged by M Ltd can also be used as the basis for comparison (external comparable). For tax purposes, the tax authority may reject the prices for transactions between X Ltd and Y Ltd (associated enterprises) and adopt the prices for transactions between independent enterprises.

However, in applying the CUP method, it should be noted that prices for the same product may differ not necessarily because of being sold to associated or independent enterprises, but because the product is not sold under similar terms and circumstances in comparable quantities and markets. Therefore, it may be necessary to make reasonable comparability adjustments for such differences.

ii. Resale price method (RPM)

The resale price method begins with the resale price to an independent enterprise of a product purchased from an associated enterprise and a gross margin is then deducted from this resale price.

Example:

A Ltd and B Ltd are related companies. A Ltd transfers goods to B Ltd which B Ltd sells to independent parties. Under the resale price method, the arm's length price of the product acquired by B Ltd in a non-arm's length transaction is determined by reducing the price realised on the resale of the product by B Ltd to independent parties by an appropriate gross margin (resale price margin). B Ltd's gross margin may be determined by reference to the gross margin that B Ltd usually earns in comparable transactions with independent parties (internal comparable), or by reference to the gross margin earned by independent enterprises in comparable transactions (external comparable) within the industry.

iii. Cost-Plus Method (CPM)

Under this approach, the costs incurred by the supplier in making the product transferred or services provided to an associate enterprise are ascertained and marked-up. An appropriate mark-up may be determined by reference to what other similar independent supplier earns in comparable transactions (internal comparable), or by reference to the mark-up earned in comparable transactions by entirely independent enterprises (external comparable).

Example:

D Ltd and G Ltd are related companies. D Ltd transferred 10,000 units of its product to G Ltd at ₦ 700 per unit. The direct costs incurred by D Ltd to produce the product amounted to ₦400 per unit. The arm's length mark-up earned by companies producing / selling similar product to independent parties is 45%. Therefore, the tax authority will recognise D Ltd's sales to G Ltd as ₦ 5,600,000 (i.e. 10,000 units x ₦ 400 x 145%) instead of ₦ 7,000,000 (i.e. 10,000 units x ₦ 700). If the method uses direct costs as in the example, then, the mark-up should cover indirect costs, overheads and profit.

iv. Profit Split Method (PSM)

The first step is to determine the combined profit that arises from a business transaction in which the associated enterprises are engaged. This profit is then split between the associated enterprises in a manner that reflects the division of profit that would have been expected between independent enterprises. The combined profit or loss attributed to the transactions in which the associated enterprises participated is allocated to the associated enterprises in proportion to their respective contributions to that combined operating profit or loss.

v. Transactional Net Margin Method (TNMM)

Under this method, the net profit margin that an enterprise earns from transactions with an associated enterprise is compared with the net profit margin earned in comparable transactions with an independent enterprise.

An appropriate net margin may be determined by reference to the net margin that the enterprise earns in comparable transactions with independent enterprises (internal comparable), or by reference to the net margin earned in comparable transactions by independent enterprises (external comparable). The transactional net margin method operates in a manner similar to the cost plus and resale price methods. However, the transactional net margin examines the net profits in relation to an appropriate base (e.g. costs, sales, assets) and not gross margin on resale or mark-up on costs.

(e) Penalty for failure to disclose controlled transactions and penalty for late filing of Country by Country returns

(i) Failure to disclose controlled transactions - A taxable person who fails to make disclosures of controlled transactions shall be liable to penalty of:

(a) ten million naira or one percent of the value of controlled transaction not disclosed, whichever is higher; and

(b) ten thousand naira for every day in which the failure continues.

(ii) Late filing of Country by Country returns – Where a reporting entity fails to file the country by country report on or before 12 months after the last day of the reporting accounting year, the service shall impose administrative penalty of ₦10,000,000 in the first instance and ₦1,000,000 for every month in which the defaults continue.

SUGGESTED SOLUTION TO QUESTION 5

(a) (i) **LEGACY TAX CONSULTANTS**

75b, Maina Avenue, Kano, Kano State

15 July 2018

The Chairman
Federal Inland Revenue Service
45, Aminu Turaki Road, Kano
Kano State

Dear Sir,

<u>Hammadan Kriesman Nigeria Limited</u>
<u>TIN Number : 58141276 – 0001</u>
<u>Objection to Best of Judgement assessment numbered LC/00444/2018 for N15,000,000</u>

We refer to your letter and the notice of assessment that was served on our above named client and wish to inform you that although the notice of assessment was dated 10 June 2018, it was received by client on 14 July 2018.

The details of the assessment notice are stated below for ease of reference:

Assessment number:	LC/00444/2018
Year of aassessment:	2018
Date of aassessment:	10/6/2018
Total profits :	₦50,000,000
Tax payable :	₦15,000,000

We hereby give notice of objection on the following grounds:

i. The assessment was based on estimate sum.
ii. The assessment was arbitrary and excessive and not in line with our client's records.
iii. The accounts for the year ended 30 December 2017 which formed the basis of the 2018 year of assessment together with the relevant capital allowances and income tax computations were filed with your office on 25 June 2018. Please find attached the acknowledged copy for ease of reference

iv. In line with the returns submitted to your office, our client's tax payable for 2018 year of assessment was ₦11,500,000 which was paid and payment evidence submitted when the returns were filed.

In view of the foregoing grounds of objection, we plead that you kindly discharge the above assessment, but instead raise a revised assessment based on the returns submitted and update our client's tax records accordingly.

We thank you for your usual co-operation and understanding.

Yours faithfully,
For : Legacy Tax Consultants

Clement Abba
Managing Partner

CC: The Managing Director
Hammadan Kriesman Nigeria Limited
20, Sabon Gari Road, Kano
Kano State

(ii)

On receipt of a notice of refusal to amend the assessment from the Federal Inland Revenue Service ("the Board"), I will advise my client to appeal to the Tax Appeal Tribunal.

The appeal will be in the form of notice to the secretary of the tribunal and must be made within 30 days after the date of service of notice of the refusal of the Board to amend the assessment.

The notice of appeal against the assessment will contain the following:

i. The official number of assessment and the year for which it was made;
ii. The amount of tax charged by the assessment;
iii. The amount of total profits upon which the tax was charged;
iv. The date the notice of refusal was served;
v. The grounds of appeal as contained in my notice of objection; and

vi. An address for service of the notice of appeal.

Should the Tax Appeal Tribunal refuse my appeal on points of law, I will appeal such decision to the Federal High Court. If the Federal High Court disagrees with my grounds of appeal, we have opportunity to recourse to the court of appeal. And if the Court of Appeal disagrees with our grounds of appeal, we shall further appeal to the Supreme Court which is the final arbiter in this case.

(b)

The following are the techniques usually adopted by multinational enterprises (MNEs) to achieve base erosion and profit shifting tax avoidance strategies:

i. Trademark and technology licensing/transfer pricing
Managing the group's trademark, design and patent through an entity that applies a lower tax rate to intellectual property, then charging companies in the group royalties on the use of the brand;

ii. Thin capitalisation
By setting up subsidiaries with minimal share capital, a group can use a financing arm to fund the new company's operation with debt. This large debt attracts interest, which has different treatments in some jurisdictions and can therefore reduce the group's tax liabilities, if structured correctly;

iii. Hybrid mismatch arrangements
Different tax rules between countries can sometimes give rise to unintended effects like "double non-taxation" which can be exploited by businesses to reduce their tax liabilities. This primarily applies to national treatment of certain instruments in such a way that they are treated in the paying country as tax deductible debt, but seen in the receiving country as tax exempt income; and

iv. Putting assets into entity without substance
Some countries introduce preferential tax regimes as a way to compete for business. However, this is only useful if the business with substance begins to locate themselves in the country, otherwise, this form of tax competition simply erodes the tax base of the country where the activity take place.

SUGGESTED SOLUTIONS QUESTION 6

(a)

Mining is the extraction of valuable minerals or other geological materials from the earth, usually from an ore body, lode, vein, seam, reef or placer deposit. These deposits form a mineralised package that is of economic interest to the miner.

Tax incentives available to companies engaged in mining operation include:

According to S.5.2.1 under the Mining Act:

i. Tax holiday for an initial period of 3 years from commencement of operations and renewable for additional 2 years. Any dividend recorded during the tax holiday period will not be subject to withholding tax upon distribution to shareholders;

ii. Exporters of mineral products may be permitted to retain part of their foreign exchange earnings in a domiciliary account for the purpose of acquiring spare parts and other mining inputs;

iii. Exemption from customs and import duties in respect of plant, machinery equipment and accessories imported exclusively for mining operations. However, the plant and equipment can only be disposed of locally upon payment of the applicable customs and import duties;

iv. Free transferability of foreign currency through the Central Bank of Nigeria (CBN) for the following:

- Payment for servicing of certified foreign loan; and
- Remittance of foreign capital in the event of sale or liquidation of the business.

v. Grant of personal remittance quota for expatriate personnel free from any tax imposed by any enactment for the transfer of external currency out of Nigeria;

vi. Accelerated capital allowances on mining expenditurs (95% initial allowance and retention of 5% until asset is disposed);

vii. Grant of investment allowance of 10% on qualifying plant and machinery;

viii. All infrastructure costs provided by the mining company and approved by the Mining Cadastre Office (MCO) to be capitalised and capital allowances claimed at 95% in the first year of operation;

ix. A company may also be entitled to claim an additional rural investment allowance on its infrastructure costs, depending on the location of the company and the type of infrastructure provided;

x. Annual indexation of unutilised capital allowance carried forward by 5% for mines that commenced production within five (5) years from the date of enactment of the Act. Whilst the period for new companies to enjoy this incentive lapsed in 2012, new producers may apply to the Minister of Finance, through the Minister of Mines and Steel Development, to enjoy this incentive. Such application may be considered on a case by case basis;

xi. The Minister may grant a concession for the royalty payable on any mineral to be deferred for a number of years, subject to the approval of the Federal Executive Council; and

xii. Actual amount incurred out of reserves made for environmental protection, mine rehabilitation, reclamation and mine closure costs shall be shall be established by company engaged in the exploitation of mineral resources; provided however, that the appropriateness of the reserve is certified by an independent qualified person taking into account determination made under the provision of this Act.-

a. The reserve is recorded in the audited financial statements of the companies;

b. Tax deductibility will be restricted to actual amount incurred for the purpose of reclamation; and

c. A sum equivalent to the reserve amount is set aside every year and invested in dedicated account or trust fund managed by independent trustees appointed pursuant to the provision of this Act..

According to the CITA provision;

i. The profits earned by a mining company after the initial tax holiday period may continue to be exempted from income tax under the following circumstances:

• If the minerals are exported from Nigeria, and the proceeds from such exports are repatriated to Nigeria and used exclusively for the purchase of raw materials, plants, equipment and spares;

• If the minerals produced are exclusive inputs for the manufacture of products for exports, provided the exporter gives a certificate of purchase of input to the company; and

• Potential full or partial exemption of interest on foreign loan from income tax, subject to the conditions stipulated under CITA.

ii. Where a mining company records a turnover below ₦1million within the first five years of commencement of business, it will be liable to tax at the rate of 20% on any taxable profit recorded.

iii. Any interest, rent, royalty, or dividend received by a Nigerian company from abroad, and brought into the country through any of the approved Nigerian banks, will be exempted from corporate income tax.

iv. Interest and/or gains received from bonds issued by any government or corporate body in Nigeria, as well as from short term securities issued by the Federal Government, are exempt from income tax. This exemption is only applicable until 2022 financial year (i.e., 2023 tax year). However, bonds issued by the Federal Government of Nigeria shall continue to enjoy this exemption.

v. The Company may be entitled to the following reliefs:

• Employment tax relief (ETR): To qualify for this relief, the company must have a minimum net employment of 10 employees in an assessment year, out of which 60% must be individuals without prior work experience and have recently graduated from a school or vocation (not older than 3 years). The ETR claimable is limited to the lower of the gross emoluments paid to qualifying employees, or 5% of the assessable profits for the year.

• Work experience acquisition programme relief: Any company with a minimum net employment of five new employees in any year, and where the company has retained the employees for a minimum of two years. This relief exempts from income tax, 5% of the assessable profits.

• Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme

The Scheme is a public-private partnership, which enables private companies fund the construction and refurbishment of eligible roads in Nigeria. In return, participants in the scheme are entitled to recover the project funds by way of tax credits, claimable against Companies Income Tax (CIT) payable.

The primary benefit of this Scheme to participants is the ability to recover the project cost as tax credit against CIT payable. This credit is represented by the Road Infrastructure Tax Credit (RITC). RITC covers:

- Project cost (any expenditure wholly, reasonably, exclusively and necessarily incurred by a participant for the construction or refurbishment of an eligible road as quoted by the participant in its project cost bid and as certified by the Committee); and
- A single uplift (similar to interest), which is equivalent to the prevailing monetary policy rate (MPR) of the Central Bank of Nigeria (CBN), plus 2% of the project cost. The uplift (income) would not constitute taxable income in the hands of a participant.

(b)

(i)The surviving company must file returns not more than six months after the end of its accounting year in accordance with the provisions of companies income tax act

(ii) Commencement rule will not be applicable

(iii) No initial allowance on assets transferred

(iv) Claim of annual allowance on tax written down values of the assets transferred

(v)The company cannot inherit the unabsorbed losses and unutilised capital allowances of the merger unless there is evidence that the company is reconstituted

(vi) All fees paid will be liable to VAT and WHT

(vii) Stamp duties will be paid on increase in share capital