

## **PRESS STATEMENT ISSUED FOLLOWING THE FEDERATION OF KENYA EMPLOYERS BOARD MEETING OF 26<sup>th</sup> FEBRUARY 2021**

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The Federation of Kenya Employers (FKE), today, 26<sup>th</sup> February 2021 held its first Board Meeting for the year 2021. We would therefore like to address the following issues that have far - reaching impact on employers countrywide; -

### **A. The Business Environment in Kenya**

The reality is that the COVID- 19 Pandemic worsened an already difficult situation for businesses operating in Kenya. According to the World Bank, the economy has been hit hard through supply and demand shocks on external and domestic fronts, interrupting the projected broad-based growth path. The locust invasion which started early in the year 2020, affected many parts of Kenya especially the North East. This had a negative impact on the food security and growth of the agriculture sector.

Furthermore, in a study conducted by FKE in August 2020 to establish the impact of COVID-19 pandemic on enterprises the results were that businesses were struggling with depressed cashflows and finances. This compounded by the recent increase in the Petroleum Development Levy Fund, has pushed the pump prices up greatly impacting on production and service sectors.

To add insult to injury, the already struggling enterprises are faced with the burden of paying Minimum Tax amidst the prevailing macroeconomic conditions. The objective of the tax (to ensure that companies in tax losses pay a fair share of Corporation Tax despite the losses) although noble, it negates the relevant tax laws and regulations to promote desirable social and economic goals. Enterprises now have to compute two tax liabilities i.e. installment tax under the current regime and Minimum Tax arising from which a company pays the higher of the two amounts. This is not only burdensome to enterprises, but it also negates the principle of certainty and simplicity.

Enterprises are struggling to stay afloat due to the Covid-19 pandemic. If pushed further, the small and medium enterprises could be tipped into premature closure, hurting jobs and the economy.

In the foregoing, the Federation of Kenya Employers urges that the Government addresses the rapidly growing burden of conducting business in Kenya as follows;

- a) There is a need to **relook or completely scrape off the implementation of the Minimum Tax**. Companies have faced numerous losses. An attempt to tax revenues rather than profits will impose an additional burden that only exacerbates their challenges.
- b) In the meantime, we appeal for **deferment within a reasonable time** to allow businesses to rebound from the effects of such negative impact of the pandemic that affect their business. This is the case in Tanzania, where Minimum Tax applies to companies that have been in a loss position for three years consecutively.
- c) The Government also needs to **reconsider the increase of the Fuel Levy** as it will raise the cost of doing business as well as the general cost of living. We call for consultations on a pro-growth strategy that will help the government to grow its revenue without increasing the cost of living and the cost of doing business in the country.
- d) **Lift the existing curfew to allowing businesses to operate optimally**. In areas classified as high-risk areas, the Government should consider applying special restrictions. We also urge citizens to continue exercising caution even as we seek to co-exist with Coronavirus until a sustainable solution, such as Vaccines are available, and administered to the population.

## **B. State of the Labour Sector**

The labour sector was the first casualty of the pandemic with loss of jobs faced through the closure of businesses, lockdown measures and redundancies. This further shrunk the labour market. Moreover, the increase in the cost of living has eroded incomes and purchasing power. Projections on the progress of employment by the middle-class have been sluggish reaching 20% in 2020.

We must appreciate though that in the face of the pandemic, the Memorandum of Understanding entered into by the Tripartite Social Partners stabilized the sector substantially. However, we are now seeing an agitation by Unions and clamor for an increase in wages and salaries to meet the demands of the rising cost of living. These demands are unsustainable to most employers due to the difficult operating environment occasioned by the COVID-19 pandemic.

We are also worried about the management of industrial disputes in the Health and Education sector that threatens to paralyze service delivery and hamper economic growth. We urge the Government and the relevant Trade Unions in the essential service sectors to embrace Social Dialogue. One of the key components that will strengthen dialogue is the respect of the Rule of Law, a case in point is the deduction and remittance of union dues by the Government.

In this regard, the Federation of Kenya Employers

- a) Advocates for **strengthening of Industrial Relations Structure** and calls for the inclusion of Social Partners in decision making.
- b) Where there are existing Recognition Agreements and Collective Bargaining Agreements, we urge the Government to lead by example and **respect the rule of law** by honouring these agreements for the sake of industrial peace and harmony.

We commend the Government on the introduction of the Unified Payroll System which will ease the administrative costs of filing returns. However, our concern as employers is the lack of a clear legal framework which raises the question of accountability and transparency in managing the funds.

- a) Towards this end we see an opportunity to **jointly come together to review the proposal** with the view to strengthen and agree on the modalities for implementation

### **C. Political Environment**

We note with concern that the rising political temperatures over the BBI Debate in the country and the drive for constitutional amendments have a negative impact on business and economic growth.

As we try to emerge from the harsh impact of the Covid- 19 pandemic, investors have had to employ a “wait-and-see” attitude on key investment and spending decisions. The ripple effect of this has also spread to all Small and Medium Enterprises (SMEs), which account for a large proportion of Kenya’s businesses, and on which much of our economic growth is premised.

In the foregoing,

- a) We call upon the political class to ensure that the BBI debate and political activities do not create situations that disrupt and affect business operations across the country.
- b) We call on our leaders to **engage and embrace constructive dialogue** in resolving their ideological conflicts.
- c) We also urge **politicians to avoid divisive talk** that will polarize the country and negate the economic recovery efforts.

Ultimately, employers continue to support the Government in the fight against Covid- 19 to minimize the risk of infection and the spread of the disease while ensuring safety and health in workplaces.

We recognize that the greatest responsibility in minimizing the spread of the pandemic and its consequences lies on everyone’s strict compliance to the safety measures and the government regulations. We, therefore, urge every citizen to stay consciously and vigilantly safe, always.

**DR. HABIL OLAKA,  
NATIONAL PRESIDENT**

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