FIGHTING ILLICIT FINANCIAL FLOWS IN KENYA AND TAX EVASION.

Kenya's economy has remained resilient over years. There are noticeable improvement in animal growth. In addition the growth performance was driven by high growth in annual economic sectors which include tourism (13.3%) mining and quarry (9.5%) construction (9.2) electricity supply (9.1%) and storage 8.4% and transport and storage 8.4%.

To secure and sustain a strong inclusive growth, fundamental areas require further attention. For example the persistent saving-investment gap require deliberate efforts to boost mobilization of domestic resources.

With wage employment generally dominated by informal economy employment, ensuring quality jobs are created is crucial in reaping the youth dividends.
Safeguarding fiscal sustainability while also promoting public investment to address infrastructural gaps, will secure a growth enhancing fiscal policy. In a meeting that brought together Trade Union leaders and members of Civil Society observed that the government of Kenya had taken a number of initiatives especially as related to fight against tax evasion as manifested by recent prosecution of a number of culprits.

We believe that the proposed financial bill 2018 once finalized and implementation will be held to reduce the loopholes used for tax avoidance and tax evasion.

In addition the meeting commended the government for the steps taken to recovery of illegally acquired assets through the recently signed agreement with Switzerland. However despite of the above progress made, the meeting noted with concern a number of issues that it calls upon the Government of Kenya to address:

1. TAX TREATIES

It was observed that the government of Kenya is currently losing over 1.88 billion annually through harmful tax incentives while companies in the Export Processing Zones (EPZ) continue to be exempted from corporate income tax for their first ten years of operations. In addition companies in Special Economic Zones (SEZ) get 10% corporate income tax rate for the first ten years and thereafter 15%.

These tax incentives have not provided the defined results they expected to generate especially as relates to Employment Opportunities

2. AUTOMATIC EXCHANGE OF INFORMATION.

It was also noted that as of June 2018 Kenya did not have any active Automatic Exchange of Information (AEOI) arrangement in compliance with the OECD's common. Reporting standard gauge rage. In addition Kenya also has not signed the Common Standard Reporting(CSR)Multilateral Competent Authority Agreement (MCAA) which facilitates Automatic exchange of information.

3. KENYA REVENUEA AUTHORITY CAPACITY.

The participants at the meeting commands the reset efforts by the KRA to fight tax evasion. The meeting noted that KRA can do a better job in the fight against illicit financial flows is their capacity is enhanced both in terms of training and better resource allocation. It is important that KRA staff are employed on permanent basis as opposed to the current state where the current state where the majority of the workers are on contract employment.

4. BENEFICIAL OWNERSHIP

According to transparency International Kenya register of beneficial ownership has been criticized for its several loopholes including not covering trusts containing any verification mechanism and any other ability to use nominee shareholders to avoid revealing the true identity of the beneficial owners.

Mechanism, and the ability to use nominee shareholders to avoid revealing the true identity of the beneficial owners.

We therefore recommend that the government of Kenya:

A) Review contentious clauses in the finance bill 2018 that includes extension of the tax amnesty by one year and introduction of 0.05% on the housing levy.

B) Review all existing statutory tax incentives through a cost-benefit analysis and remove those that are not beneficial, including the Export Processing ZoneEPZ's and Special Economic Zones (SEZ's: and discontinue the incentives that are not beneficial to Kenya.

C) List all current tax incentives – including discretionary tax incentives – on the Kenya revenue authority website. Further there is the need to subject all tax incentives – including statutory and discretionary incentives and those in the EPZ's and SEZ's – to public scrutiny: including the parliament, media, civil society and citizens.

D) Halt any further discretionary tax incentives to individual companies. In addition, Kenya should avoid tax treaties with any countries and jurisdictions that could be used by multinational companies for treaty shopping.

E) Should as a matter of priority start automatic information exchange on financial matters.

F) Resource KRA with highly trained staff, IT infrastructure and give it a strong mandate and legal instruments to enforce tax laws and policies.

G) Should close loopholes in its beneficial ownership legislation and make access to its beneficial ownership register free of charge in recognition of the recent presidential executive order requiring government entities and public institutions to publish full details of tender winners including directors and beneficial owners.

H) Should sustain the onslaught on corruption.

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