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## **PRESS STATEMENT**

*For Immediate Release;*

### **REVISED EXCISE DUTY RATES ON PRODUCTS CONTAINING NICOTINE OR NICOTINE SUBSTITUTES INTENDED FOR INHALATION WITHOUT COMBUSTION**

We wish to address the adoption by parliament (during its open-session on the budget 2021/2022 on the 23<sup>rd</sup> June 2021), of proposals in the report by the Finance & National Planning Committee. It was resolved to reduce the set Excise tax rate for these products to Ksh.1200 per kg from Kshs. 5000 per kg, as proposed by the Treasury Cabinet secretary Hon. Ukur Yattani.

As organizations involved in tobacco control, health promotion and general wellbeing of Kenyans, we wish to register vehemently, our fervent objection to this development for the following reasons:

1. Kenya is a signatory to the **World Health Organization's Framework Convention on Tobacco Control (WHO-FCTC)**, which is an international treaty developed in response to the globalization of the tobacco epidemic.
2. Kenya domesticated the **WHO-FCTC** through the enactment of the **Tobacco Control Act 2007** and subsequently passed the **Tobacco Control Regulations 2014**.
3. Article 6 of the **WHO-FCTC** requires parties to implement tax and price policies on tobacco products to contribute to the health objectives by reducing tobacco consumption. This is emphasized in the Tobacco Control Act, 2007 at Section 12 (a); Here, the minister in charge of finances is required to "implement tax policies and where appropriate, price policies on tobacco and tobacco products to contribute to the objectives of the Act". These include reducing the prevalence of tobacco products and protecting persons from the adverse health effects caused by tobacco use.

4. Further, Section 31(1) of the regulations states that: *A public authority shall, while implementing investment and tax laws, and other policies related to tobacco, be guided by the priority to tackle the adverse health, social, economic and environmental impacts of tobacco growing, manufacture, sale and consumption in Kenya.*
5. The World Health Organization (WHO) has authoritatively stated that there is no sufficient evidence to affirm the claim that smokeless tobacco products are less harmful than combustible ones. It notes that there is no evidence to recommend that any smokeless tobacco product should be used as part of any harm reduction strategy.
6. Article 5(2) (b) of the WHO-FCTC urges states adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke. The initial recommendation by the treasury cabinet secretary was set pursuant to this and after consultations with the Kenya Revenue Authority and the ministry of Health. The reduced rate as approved flies in the face of efforts by the other government entities to implement set legislation.
7. The adoption of this resolution will lead to significant prevalence and use of these products thereby fostering continued addiction to nicotine products.
8. The reduced taxes from this measure will lead to reduced revenue for the government thereby hampering development efforts on the big four agenda and deny funding other on-going/planned projects.
9. The Universal Health Coverage program would be a prominent casualty of reduced revenue in this regard. Increased taxes would have seen more funds directed towards this program to the benefit of all Kenyans.
10. Under article 6 of the WHO-FCTC, taxation and price measures are marked as integral in the reduction of consumption and encouraging quitting use of these products and national authorities should employ this mechanism.

Based on the above, we as tobacco control and health promotion actors in the country are calling upon the parliament to:

- a) Reverse the resolution to reduce the tax rates as noted above and re-instate the originally proposed rate of Kshs. 5000 per Kg.

b) Progressively raise tax rates on these products to achieve the 70% tax on selling price of tobacco products as recommended by WHO.