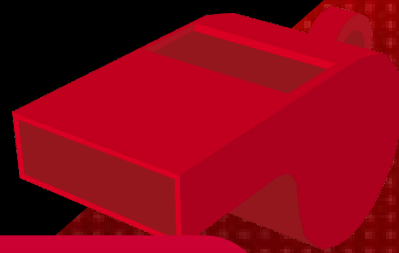


TAX ALERT

July 25, 2025



Depreciation Adjustments for Investment Properties held at Fair Value

Introduction

The UAE Ministry of Finance has issued Ministerial Decision ("MD") No. 173 of 2025, introducing a key amendment to the UAE Corporate Tax framework by allowing **tax depreciation on investment properties ("IP") measured at fair value**.

Under the UAE Corporate Tax Law, a taxable person's liability is determined based on financial statements prepared in accordance with **International Financial Reporting Standards ("IFRS")**. While IFRS allows depreciation on IPs measured using the **cost method**, no such depreciation charge exists under the **fair value method**. Consequentially, taxable persons following the fair value method were previously unable to claim depreciation deduction for tax purposes.

MD No. 173 of 2025 aims to bring parity by introducing a mechanism that allows for depreciation deduction in respect of IP measured at fair value, thereby promoting **consistency, fairness, and neutrality in tax treatment regardless of the accounting method adopted**.

Through this alert, we present the key highlights of **MD No. 173 of 2025** in a simplified and practical manner for your ease in reference.

The decision applies to Tax Periods starting on or after 1 January 2025.

Snapshot:

- A Taxable Person **may elect to claim depreciation at 4%** per annum on the original cost of the IP. The original cost refers to either:
 - The cost to the Taxable Person, or in certain cases (explained later), the cost to the Transferor.
- Depreciation must be calculated for each **12-month** period.
- **Depreciation to be prorated:**
 - Based on the length of the Tax Period (for e.g., 6 months or 18 months), or
 - The actual holding period of the investment property during the Tax Period.
- This election is available only if:
 - The Taxable Person adopts the accrual basis of accounting, and
 - **Has elected to be taxed on a 'realisation basis'.**
- **One time window:**
 - MD 134 of 2023 requires the taxable person to elect for 'realisation basis' of taxation in their first tax return.
 - As an exception, MD 173 of 2025 provides another opportunity to elect 'realisation basis' of taxation provided the taxable person holds an IP on which it wishes to avail tax depreciation pursuant to this MD.

- The election:
 - Is **irrevocable**, and
 - Must be **made at the level of the Taxable Person, not separately for each IP**.
- Not making election under this MD within the specific timeline will result in **forfeiture of the right to make election**.
- The Decision includes specific provisions for IP transferred under - Qualifying Group Relief (QGR), Business Restructuring Relief (BRR), and between members of a Tax Group (TG).

A) Eligible Assets:

Tax depreciation can be claimed in relation to **IP, as defined under the MD 173 of 2025, carried at fair value**. This benefit is not available for land and any exclusion provided for in the International Accounting Standard No. 40.

B) Conditions to claim tax depreciation:

- The financial statements of the Taxable Person are prepared on **Accrual Basis of Accounting**.
- The Taxable Person has elected to **recognize gains and losses on a 'realisation basis'**.

C) Computation Mechanism:

The tax depreciation is computed as under:



*The tax depreciation has to be prorated in case of:

- Shorter or longer tax period; or
- period of holding the IP where IP is held for part of the tax period

Now, each of the abovementioned elements have been discussed hereunder:

- Original Cost** -: Cost as recognized as per the accounting standards applied by the Taxable Person / Transferor** and any subsequent capitalized costs which meet the arm's length principle.
- Tax Written Down Value** -: **Opening Value** minus aggregate depreciation allowed under this MD to the Taxable Person / Transferor**

**In case of QGR / BRR / transfers within members of TG, the Original Cost and Opening Value has to be considered as per the cost incurred by the transferor.

- Opening Value** -: Original Cost of the IP **minus** a cumulative depreciation of 4% for each Gregorian calendar year—prorated where applicable for part of a year—during which the Taxable Person held the IP **prior to the Tax Period specified below:**



Scenarios	Tax Period
1. Taxable Person who has elected Small Business Relief ("SBR")	The first Tax Period in which Corporate Tax is imposed on such Taxable Person
2. Subsidiary joins an existing Tax Group where such subsidiary had not made an election under this MD	The Tax Period in which the subsidiary joins such existing Tax Group
3. Transfer of IP covered by QGR/ BRR where transferor had not made election under this MD	The Tax Period in which the transfer occurs
4. Any other cases	The first Tax Period to which this MD applies

Some observations:

- Under Scenario 4 mentioned in the above table, the Tax WDV at the beginning of first tax period (in which tax depreciation is allowable as deduction) is expected to same as the Opening Value of IP.
- The allowability of tax depreciation, despite no corresponding accounting depreciation under the fair value method in a given tax year will result in a timing difference, **giving rise to a deferred tax liability** in accordance with applicable accounting standards.

We have provided hereunder an illustration for ease of understanding:

Particulars	Remarks/ Amounts (In AED)
Original cost of IP carried at Fair Value	5,000,000
Date of acquisition of IP	1 January 2022
First Tax Period	1 January 2024 to 31 December 2024
First Tax Period to which MD No. 173 applies	1 January 2025 to 31 December 2025
Calculation of opening value: Aggregate depreciation prior to first tax period where the Decision applies: <ul style="list-style-type: none"> • 2022 – 4% • 2023 – 4% • 2024 – 4% Total cumulative depreciation before 2025 = 12% Opening value as at 1 January 2025	$5,000,000 * (100-12\%) = 4,400,000$
Calculation of depreciation for the 2025 tax period, lower of: <ul style="list-style-type: none"> • 4% of original cost (a); or • Tax WDV (which happens to be same as Opening Value in this case) at the start of relevant tax period (b) 	200,000 4,400,000



Depreciation eligible for deduction for year ended 31 December 2025 (c) = lower of (a) or (b)	200,000
Deferred tax expense on depreciation for the period ended 31 December 2025 [9% * 200,000 (i.e., depreciation to be claimed during the year)] (d) = (c) * 9%	18,000
Deferred tax liability in relation to IP (due to depreciation claimed) to be recorded as on 31 December 2025	18,000

D) Tax Treatment at the Time of realisation of IP

- a) Upon realisation of IP, the **Taxable Income of the relevant Taxable Person must be increased by the total tax depreciation**, or proportionately in case of partial realisation, previously claimed
- b) The events of realisation and their timing of taxation are provided hereunder:

Event	Timing of Taxation
Sale, disposal, transfer, derecognition, or complete worthlessness under applicable accounting standards	Tax Period in which the relevant event occurs
Change in accounting policy for IP from fair value to cost method	
Cessation of the business or business activity, by way of dissolution, liquidation or otherwise	
The Taxable Person becoming an Exempt Person or opts for SBR	Last Tax Period prior to occurrence of event

Any transfer of IP under QGR, BRR or transfer within member of the Tax Group is not regarded as "realisation".

- c) Continuing the above example, we have illustrated the tax implications at the time of realisation:

Particulars	Remarks/ Amounts (In AED)
Fair Value in the books of accounts as on 31 December 2025	6,000,000
Investment Property sold on 30 June 2026 at value	6,500,000
Accounting gains subject to tax for 2026 tax period (e)	500,000
Calculation of depreciation for the 2026 tax period, lower of:	
• 4% of original cost (pro-rated for 6 months) (f); or	100,000
• Tax WDV at the start of relevant tax period (g)	4,200,000
Depreciation eligible for deduction for period 2026 (h) = lower of (f) or (g)	100,000
Depreciation offered to tax during the period on account of realisation of IP (Depreciation claimed for 2025 – 200,000 plus 2026 – 100,000) (i) = (c) + (h)	300,000



Depreciation claimed until 2025 now offered to tax during 2026 upon realisation (j) = (i) – (h)	200,000
Reversal of Deferred Tax Liability in relation to IP in 2026 (200,000 * 9%) (k) = (j) * 9%	18,000

Note - In the above calculation, tax implications including deferred tax implications on account of change in fair value of the IP is not considered.

E) Applicability of the MD and Election timeline:

- a) MD 173 is applicable to Tax Periods beginning on or after 1 January 2025.
- b) The timeline for eligible taxable person to elect for claiming depreciation is provided hereunder:
- | Scenario | Timeline |
|--|--|
| Taxable Person holds IP during the first Tax Period to which MD No. 173 applies | In the Tax Return of First Tax Period to which this MD applies |
| Taxable Person that does not hold an IP during the first Tax Period to which this MD applies | In the Tax Return of the Tax Period in which the first IP is held |
| Taxable Person electing for SBR | In the Tax Return of the first Tax Period where SBR does not apply |
- c) If the election is not made as per the abovementioned timeline, the Taxable Person shall be considered to have forfeited its right to claim depreciation on the IPs held .
- d) The aforesaid election is **irrevocable** and shall apply to all IPs *i.e., no option to make this election qua IP unlike Transitional Relief on immovable properties.* .

F) Interplay with MD No. 134 of 2023

- a) MD No. 173 of 2025 is applicable if the Taxable Person has made an election to be taxed on 'realisation basis', an option governed by Article 20(3) of the UAE CT Law read along with MD No. 134 of 2023.
- b) As per MD No. 134 of 2023:
- A Taxable Person is required to elect the '**realisation basis**'* of taxation in its **first Tax Period; and**
 - Once made, this election is generally **irrevocable**, unless **exceptional circumstances** and subject to approval by the **Federal Tax Authority (FTA)**.

**As per Article 20(3) of the UAE CT Law, such election is required to be made either for all assets and liabilities subject to fair value or impairment or all assets and liabilities held on capital accounts.*

- c) As an **exception**, MD 173 of 2025 provides another opportunity to elect 'realisation basis' of taxation provided the taxable person holds an IP on which it wishes to avail tax depreciation pursuant to this MD. For election timeline, refer to **Section E** above.

Some observations:

- The one-time window introduced by MD No. 173 of 2025 is a welcome step, as it allows Taxable Persons to re-evaluate and opt for the 'realisation basis' of taxation, thereby enabling them to benefit from the depreciation provisions for IPs carried at fair value.
- However, there are certain aspects which may require to be explicitly clarified:

- Scope of the 'Realisation Basis' Election – While MD 173 of 2025 is applicable on IPs carried at fair value by the taxable person, utilizing the one-time window provided by this MD electing for taxation on 'realisation basis' (to claim tax depreciation on IPs) may consequentially (and involuntarily) alter the taxation basis of 'other assets' held by such taxable person.

For instance, ABC LLC (a UAE tax resident company) owns IPs and no election was made for taxation on 'realisation basis' in its first return for FY 2024. Subsequently, to claim depreciation on such IPs in FY 2025, ABC LLC makes an election under MD 173 for taxation on 'realisation basis' for 'all assets subject to fair value or impairment accounting'. Now, this may result in taxing/ deduction of unrealised gain / loss (such as provision for doubtful debts) on all assets other than IP owned by ABC LLC also on 'realisation basis'.

- Continuing with the above, treatment of unrealised gains / losses already taxed/ deducted in the prior tax period needs to be evaluated. Whether such gains / losses be deductible / taxable in a subsequent year upon electing the 'realisation basis' remains open.

Extending the above example, in case ABC LLC recorded an unrealised gain in FY 2024 on IP. The same was offered to tax in FY 2024 (considering no election was made for taxation on 'realisation basis'). Treatment of this unrealised gain (offered to tax in the FY 2024) i.e., as a tax deduction in the FY 2025 (when election has been made to tax on 'realisation basis') needs to be tested.



G) Specific provisions in case of QRG, BRR and Transfers within members of TG

For the purpose of this section, "transferor" refers to taxable person transferring the IP in a QRG / BRR / transfer to another member of TG. Similarly, "transferee" refers to taxable person getting the IP in a QRG / BRR / transfer from another member of TG.

- The below points are applicable wherein both transferor and transferee have opted to claim depreciation under this MD
 - Determination of Original Cost and Tax WDV –
 - As outlined in **Section C**, for computing the **depreciation deductible** in the hands of the transferee, the **Original cost and Opening Value** of the IP in the books of the **transferor** shall be adopted.
 - To compute the **Tax WDV** of the asset, the **aggregate tax depreciation** claimed by **both the transferor and the transferee** must be deducted from the **Opening Value** of the IP.
 - Tax Implications on subsequent disposal by transferee - As mentioned in Section D above, tax depreciation claimed by the relevant taxable person is included in the taxable income upon realisation. Accordingly, if the IP is subsequently sold off by the transferee, the tax implications shall be as follows:
 - Claw back is not triggered (i.e. IP transferred more than **2 years** after original transfer by the transferor) –
 - Tax depreciation claimed by the **transferor** and **transferee** shall be taxable in their respective hands at the time of realisation.
 - However, if the **transferor has ceased to be a Taxable Person**, the **aggregate depreciation** claimed by the transferor shall be **taxable in the hands of the transferee**.
 - Claw back is triggered (i.e., IP transferred within 2 years of original transfer by transferor to transferee) –
 - Same treatment as above in terms of taxation of depreciation.
 - Additionally, the **transferee is entitled to claim a catch-up adjustment**, calculated as:

*Depreciation that would have been allowable if computed based on the **original cost to the transferee**, minus the **actual depreciation claimed** (which was based on the original cost to the transferor).*



Other Adjustments

- a) Where an IP is transferred and the transferee applies the cost method under IFRS, the tax depreciation previously claimed by the transferor must be reduced from the depreciation, amortisation, or any other change in the value of the IP recorded by the transferee for tax purposes.
- b) This adjustment will be allowed as a deduction when the transferee subsequently disposes of the IP, provided the transfer is not made under QRG, BRR, or within a Tax Group.

The above adjustment may result in recognition of deferred tax asset (DTA) in the books of the transferee in the year of making such adjustment, to the extent of the tax depreciation (claimed by the transferor) that is adjusted in the hands of the transferee. Such DTA to be reversed in the year when it is allowed as deduction to transferee (i.e., year of subsequent disposal of IP not made under QRG, BRR, or within a Tax Group).

Conclusion

By setting out clear and equitable rules for depreciation recognition, election processes, and realisation adjustments, this Decision promotes fairness and consistency among all taxable persons holding investment properties.

The taxable person (holding IPs on which it wish to claim tax depreciation under this MD) should re-evaluate the impact of opting for 'realisation basis of taxation' under the one-time window provided by MD 173 of 2025 to claim tax depreciation on investment properties.

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www.dhruvaconsultants.com

UAE CONTACTS

NIMISH GOEL

Leader, Middle East
nimish.goel@dhruvaadvisors.com
Tel (UAE): +971 50 106 6531
Tel (KSA): +966 54 760 1600

KAPIL BHATNAGAR

Partner
kapil.bhatnagar@dhruvaadvisors.com
Tel: + 971 5 868 36207

RAKESH JAIN

Partner
rakesh.jain@dhruvaadvisors.com
Tel: +971 50 135 2319

SANDEEP KUMAR

Partner
sandeep.kumar@dhruvaadvisors.com
Tel: +971 50 504 8787

VLAD SKIBUNOV

Partner
vlad.skibunov@dhruvaadvisors.com
Tel: + 971 54 404 0510

GEET SHAH

Partner
geet.shah@dhruvaadvisors.com
Tel: +971 50106 9034

UJJWAL KUMAR PAWRA

Partner
ujjwal.pawra@dhruvaadvisors.com
Tel: +971 50199 3363

SHIRAZ SALEEMI

Associate Partner
shiraz.saleemi@dhruvaadvisors.com
Tel: +971 506602520

KSA CONTACTS

HANY ELNAGGAR

Associate Partner
hany.elnaggat@dhruvaadvisors.com
Tel: +966 53 621 4856

MANISH BANSAL

Associate Partner
manish.bansal@dhruvaadvisors.com
Tel: +966 54 645 0681

DHRUVA CONSULTANTS

Dubai

207, Emaar Square, Building 4, PO
Box 127165, Dubai, UAE
Tel: + 971-4240-8477

Abu Dhabi

1905, Addax Tower City of Lights,
Al Reem Island, Abu Dhabi, UAE
Tel : +971-2678-0054

Saudi Arabia

308, 7775 King Fahd Road, Al
Olaya, 2970, Riyadh 12212,
Saudi Arabia

DHRUVA ADVISORS

Mumbai | Ahmedabad | Bengaluru | Delhi/NCR | Gift City | Kolkata | Pune

DHRUVA ADVISORS PTE. LTD.

Singapore

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