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# **UAE FTA issues Ministerial Decision on**

# **Depreciation Adjustments for Investment Properties**

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## 1 Quick Rundown

- The UAE Federal Tax Authority has issued Ministerial Decision No. 173 of 2025 ('Decision') which outlines depreciation adjustments for Investment Properties held at fair value for the purposes of the Federal Decree-Law No. 47 of 2022 ('UAE CT Law' or 'Corporate Tax Law')
- The Decision provides for rules wherein the Taxable Persons can adjust their Taxable Income by applying a depreciation deduction to Investment Properties that are held at fair value under applicable Accounting Standards. The Decision shall apply to Tax Periods *starting on or after January 1, 2025*.

## 2 Key Definitions

### Accounting Standards & Accrual Basis

- The accounting standards mentioned in Ministerial Decision No. 114 of 2023 issued by FTA.
- Accrual basis is an accounting method whereby a Taxable Person recognises income when the same is earned and expenses when they are incurred.

### Investment Property

- A building or a part thereof held by the owner or lessee (as a right-of-use asset) to earn rental income or capital appreciation (or both) in line with International Accounting Standard 40 (IAS 40)
- Does not include land or any other exclusions specified in IAS 40.

### Realisation basis

- Election available to Taxable Persons who maintains books under Accrual Basis wherein any unrealised gains & losses are excluded for computing Taxable Income
- Realisation herein refers to sale/ disposal or write-off of assets or liabilities in accordance with applicable accounting standards.

**Opening Value:** Original Cost of Investment Property net of **aggregate depreciation of 4% per full Gregorian year**, prorated for any part year, for the period the Taxable Person held the Investment Property prior to the Tax Periods as mentioned below:

**A**

First Tax Period wherein Corporate Tax is imposed on a Taxable Person who have been previously exempt due to Small Business Relief – Article (21) of UAE CT Law

**B**

Tax Period in which a new Subsidiary joins an existing Tax Group, where the Subsidiary had not made the Depreciation election provided under this Decision.

**C**

Tax Period in which a transfer covered by Business Restructuring Relief or Qualifying Group Transfer Relief occurs wherein the transferor had not made Depreciation election provided under this Decision.

**D**

In all other cases, the first Tax Period to which this Decision applies for the Taxable Person.

## Tax Written Down Value

- Tax Written Down Value shall be the Opening Value reduced by the total depreciation deductions claimed under Depreciation election of this Decision by the Taxable Person or the transferor, as the case may be.

## Original Cost

- Refers to 'cost' as defined in IAS 40, as adopted by the International Accounting Standards Board.
- Includes any subsequently capitalised costs, subject to the arm's length principle in accordance with Article 34 of the Corporate Tax Law.

### 3 Election to Apply Depreciation

#### Eligible for

Taxable Persons that prepare Financial Statements on Accrual Basis of Accounting and has elected to take into account gains and losses on a Realisation basis

#### Available election

An one-time i.e., irrevocable election wherein an adjustment to the Taxable Income is allowed (in respect of Investment Property measured at fair value under IAS 40) through a depreciation deduction **equal to the lower of:**

A)

- **4% of the Original Cost for each twelve month Tax Period;** (OR)
- **Prorated** wherein the Tax Period is *shorter or longer than twelve months* or where the Investment Property is *held for only part of the Tax Period*.

B)

Tax Written Down Value at the start of the relevant Tax Period

#### Election for Realisation Basis (*other than First Tax Period*)

- Under Article 20(3) of UAE CT Law read with Article 8(3) of Ministerial Decision of 134 of 2023, a Taxable Person is required to elect for Realisation Basis *vide* the Corporate Tax Return of the First Tax Period and the same shall be an irrevocable election.
- However, under this Decision as provided under Article 2(5), a Taxable Person who is willing to elect for Depreciation of Investment Property can **also elect for Realisation in the Corporate Tax Return of the concerned Tax Period – even if the same is not the First Tax Period for such Taxable Person.**

## 4 Election Timeline

01

A Taxable Person holding an Investment Property in the first Tax Period to which this Decision applies must make the election in the Tax Return for such period;

02

A Taxable Person not holding an Investment Property in the first applicable Tax Period must make the election in the Tax Return for the period in which the first Investment Property is acquired;

03

A Taxable Person previously exempt under Small Business Relief must make the election in the Tax Return for the first Tax Period in which the exemption ceases to apply.

*Failure to make the election within the prescribed timelines as provided above will result in forfeiture of the right to elect for a Taxable Person.*

## 5 Events considered as Realisation



Sale, disposal, transfer (excluding those covered by reliefs under UAE CT Law) settlement, obsolescence or any other form of derecognition of the Investment Property in accordance with the applicable Accounting Standards.



Change in the accounting policy applied to Investment Property, shifting from the fair value model to the cost model.



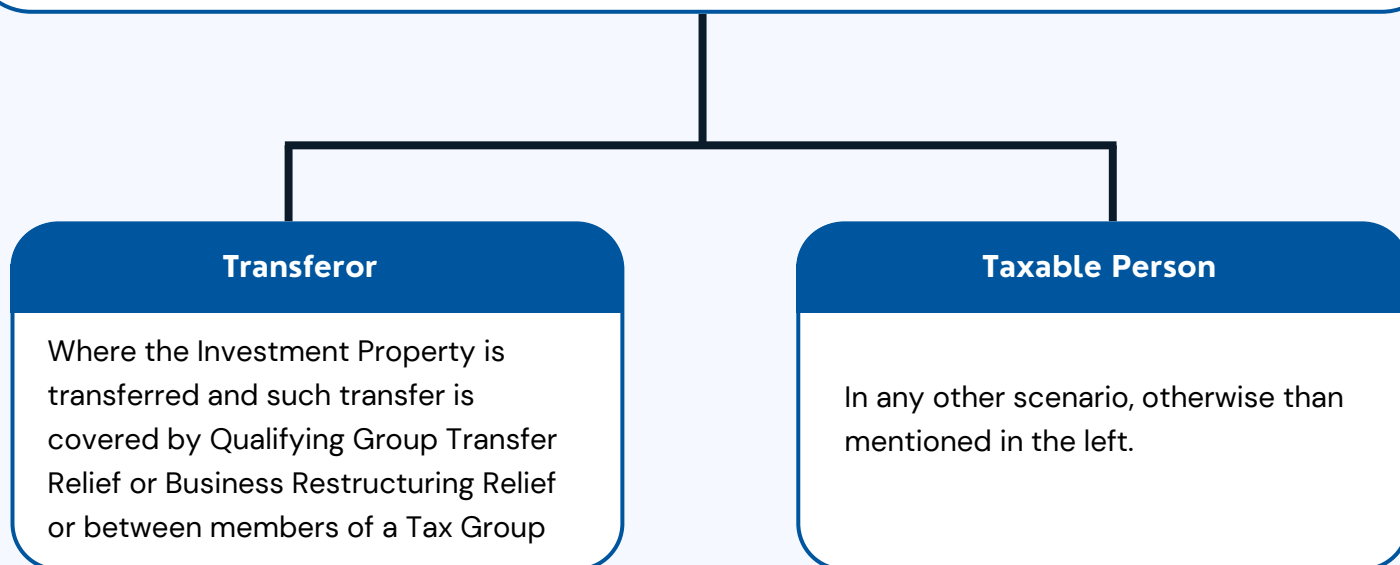
Taxable Person becomes an Exempt Person under UAE CT Law or makes an election to benefit from Small Business Relief.



In the event that the Taxable Person discontinues Business or Business Activity, whether by way of dissolution, liquidation or any other means.

## 6 Opening Value & Original Cost

The Opening Value and Original Cost for the purpose of depreciation computation shall be that of the below mentioned Person depending upon specific scenarios:



### *Scenarios wherein clawback provisions apply*

- Under cases wherein Reliefs under CT Law – such as Qualifying Group Transfer Relief, Business Restructuring Relief, etc. are clawed back due to non-adherence of conditions provided therein under the relevant clauses of such provisions, the Opening Value & Original Cost shall be determined from the transferee's perspective;
- Herein, the transferee shall adjust its Taxable Income during the Tax Period for a depreciation deduction elected under this Decision that has not been previously adjusted by the transferee with respect to such Investment Property.

## 7 Special Anti-Abuse Rule

In case an Investment Property is transferred between Related Parties, the FTA can deny the depreciation deduction claimed by the transferee under this Decision, whereby the FTA deems that the transaction or arrangement lacks a legitimate commercial rationale aligned with economic substance.

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## Adjustments during Realisation

### Adjustments to Taxable Income of Taxable Peson

#### Transfers not covered by Reliefs under UAE CT Law (and falling under clawback provisions)

- **Transferor:** Adjust the Taxable Income **upward** to negate the aggregate depreciation deduction claimed;
- **Transferee:** Adjust the Taxable Income **downward** to include any amount of depreciation deduction previously excluded from Corporate Tax.

#### Transfers covered by Reliefs under UAE CT Law

The Taxable Income of the transferee shall be **adjusted upward** by the aggregate depreciation deduction/ on a pro-rata basis in the event of partial realisations, as elected under this Decision.

- In case of transfers not covered by Reliefs under UAE CT Law, wherein the transferor has ceased to be a Taxable Person, the aggregate depreciation deduction claimed by the such transferor shall be attributed to the transferee;
- In cases wherein during a Tax Period the Realisation occurs due to the Taxable Person becoming an Exempt Person or such Taxable Person opting for Small Business Relief, the adjustments to Taxable Income shall be in the Tax Period preceding such events' occurrence.

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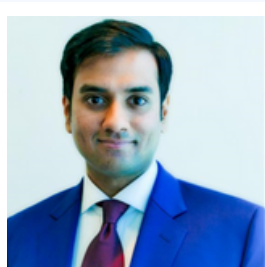
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