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UAE Ministry of Finance issues Ministerial Decision on depreciation adjustments for investment properties held at fair value

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The United Arab Emirates Ministry of Finance has recently issued a new Ministerial Decision No. 173 of 2025 (“the **Decision**”) on depreciation adjustments for investment properties held at fair value for the purposes of Federal Decree-Law No. (47) of 2022 on the Taxation of Corporations and Businesses (“the **Corporate Tax Law**”).

Under this Decision, taxpayers who elect the realisation basis can choose to deduct depreciation from their taxable income for investment properties held at fair value. This depreciation regime allows a fixed annual deduction based on 4% of the property’s original cost, subject to certain limits and adjustments.

This Alert summarises the key provisions of the Decision, applicable to tax periods starting on or after 1 January 2025, along with related recommendations.

Eligibility and scope of application

The Decision applies to Taxable Persons who prepare Financial Statements on an Accrual Basis and have chosen to take into account gains and losses on a realisation basis.

Where these conditions are met, the Taxable Person may elect to apply a depreciation deduction for Investment Properties held at fair value under the applicable Accounting Standards.

For the purposes of this Decision, an Investment Property refers to a building or part of a building held by the owner or lessee as a right-of-use asset to earn rental income or for capital appreciation (or both), as specified in International Accounting Standard No. 40 (“**IAS 40**”). Notably, land is specifically excluded, along with other exclusions specified under IAS 40.

The election, once made, is irrevocable and will apply to all the Taxable Person’s Investment Properties held at fair value (i.e., it cannot be applied selectively).

Calculation of the depreciation deduction

Where the election is made, the Taxable Person may deduct depreciation from its Taxable Income in respect of each Investment Property held at fair value.

The annual depreciation deduction corresponds to the lower of:

- 4% of the Original Cost of the property; or
  - The Original Cost is defined in accordance with IAS 40 and must include any subsequent capitalised costs, subject to the arm's length principle.
- the Tax Written Down Value of the property at the beginning of the relevant Tax Period.
  - The Tax Written Down Value is computed as the Opening Value of the property reduced by the aggregate depreciation deduction already applied. The Opening Value is the Original Cost reduced by an aggregate depreciation deduction of 4% for each year during which the Taxable Person held the Investment Property before the application of this Decision.

This amount must be prorated where the property is held for only part of the Tax Period or the Tax Period is longer or shorter than 12 months.

In the case of intra-group transfers or restructurings, the transferee inherits the transferor's values.

Timing of election

The Decision applies to Tax Periods starting on or after 1 January 2025. The election must be made through the Tax Return filed for the first Tax Period to which the Decision applies where the Taxable Person already holds Investment Property, or for the Tax Period in which such property is first acquired if none were previously held. No depreciation can be claimed for prior periods; rather, a notional deduction is applied to cap future deductions.

Failure to make the election within these specified timelines results in a forfeiture of the right to apply this depreciation regime.

Adjustments to taxable income upon realisation

Upon realisation of an Investment Property, the Taxable Person must increase its Taxable Income by the aggregate depreciation deduction previously claimed under the Decision. The realisation adjustments are made in the Tax Period in which the realisation event occurs, or if the Taxable Person becomes exempt or elects the small business relief, in the Tax Period immediately preceding that event.

For the purposes of the Decision, "realisation" of an Investment Property means the earliest occurrence of any of the following events: sale, disposal, transfer (with some exceptions), settlement, total loss, or derecognition; a change from the fair value to the cost model; the Taxable Person becoming exempt or electing the small business relief; or cessation of business activities, including dissolution or liquidation.

If the transferor ceases to be a Taxable Person, the aggregate depreciation deduction claimed by the transferor will be attributed to the transferee.

TREATMENT OF RESTRUCTURINGS AND INTRA-GROUP TRANSFERS

For intra-group transfers or restructurings, when the transferee applies the cost model, it must exclude any depreciation previously claimed by the transferor from its Taxable Income. This exclusion must be reversed upon subsequent realisation unless the transfer also falls under the same provisions.

When an Investment Property is transferred between Related Parties, a specific anti-abuse provision allows the Federal Tax Authority to deny the depreciation deduction if the transaction lacks a valid commercial reason or any other non-tax-related rationale that reflects economic reality.

Conclusion and recommendations

This Decision introduces a clear and consistent framework for the tax treatment of Investment Properties held at fair value. Taxpayers using the realisation basis can now deduct depreciation for Investment Properties held at fair value, starting from tax periods on or after 1 January 2025.

For taxpayers intending to benefit from this depreciation regime, it is recommended that they:

- **Assess their eligibility** by reviewing their accounting basis and realisation method;
- **Ensure election is made within the required timeframe**;
- Review their Property portfolio by identifying all Investment Properties held at fair value and preparing to apply the depreciation regime consistently across them;
- **Ensure** that intra-group or related-party transfers are supported by **robust commercial documentation** to withstand scrutiny by tax authorities; and
- **Be prepared to reverse depreciation deductions** upon realisation and factor this into tax planning and forecasting.

Do you have any questions?

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