



Tax Depreciation on Investment Properties Held at Fair Value

FTI Consulting | July 2025

Ministerial Decision No. 173 of 2025 (“MD 173”), marks a significant step. This decision bridges the gap between the accounting and tax treatment of investment properties in the UAE that are measured at fair value, compared with businesses that use the cost model to record their investment properties.

Many businesses, particularly in the real estate and asset management sectors, account for investment properties under International Accounting Standard 40 (IAS 40). Where the fair value model is used, no depreciation is recorded in the financial statements – compared with investment properties measured on a cost and net book value basis. Instead, assets are remeasured annually, with fair value gains or losses recognized in profit or loss.

While this treatment reflects the economic reality in financial reporting, it creates a disadvantage for tax purposes. As a result, taxpayers cannot claim depreciation deductions despite incurring capital expenditure on such properties. MD 173 responds to this inequity by introducing a tax framework that allows notional depreciation for properties held at fair value. In doing so, it achieves parity with properties carried at cost.

This alert sets out the main provisions of MD 173 for UAE business. MD 173 focuses on the treatment of depreciation and add-backs relating to transfers between tax groups or qualifying groups under the UAE Corporate Tax Law.

Executive Summary

- MD 173 seeks to bring parity between investment properties that do not benefit from depreciation due to accounting considerations and those properties valued at cost and eligible for depreciation.
- MD 173 provides that 1 January 2025 onwards, tax depreciation is allowed at the lower of 4% of the original cost or the tax written down value (TWDV). This applies for investment properties held before 1 January 2025 or acquired on later dates.
- This depreciation allowance applies only if an irrevocable realization basis election under Article 20(3) of the UAE CT law has been made for the investment properties. Additionally, the election to claim depreciation on the aforementioned properties is also another irrevocable election.
- MD 173 addresses the interplay between transfers within tax groups and transfers claiming relief under Article 26 (Qualifying Group Relief) and Article 27 (Business Restructuring Relief). Specifically, MD 173 disallows double deductions for depreciation between transferor and transferee for investment properties transferred under these provisions.

- The depreciation deduction constitutes only a timing difference as it must be added back to the taxable income when a realization event occurs, such as a sale.
- The potential deferred tax impact arising from the tax depreciation should be considered along with the related effect on the Pillar 2 effective tax rate.

Overview of Key Provisions

From 1 January 2025, MD 173 introduces an irrevocable election for certain businesses. These are businesses that have elected for gains and losses to be taxed on a realization basis under Article 20(3) of the Corporate Tax Law. This election allows them to claim tax depreciation on investment properties held at fair value. The main provisions are:

- **Standard depreciation rate:** A straight-line depreciation rate of 4% a year on the original cost of the immovable property is allowed for tax purposes. This generally reflects a notional useful life of 25 years.
- **Tax written down value:** The TWDV of an investment property is calculated as follows:
 - TWDV = Original cost reduced by 4% of the original cost for each year the property has been held since acquisition.
- **Annual deduction rule:** In any tax period, the allowable depreciation deduction is the lower of:
 - 4% of the original cost, or
 - the TWDV at the beginning of the period.

This approach prevents taxpayers from overstating depreciation in later years while ensuring economic wear and tear is recognized for tax purposes.

Some practical considerations

- It is critical to note that while MD 173 applies from 1 January 2025, the irrevocable election to be taxed on a realization basis must be claimed in the 2024 return.
- This makes the determination of realization basis of taxation under Article 20(3) of the CT law, prior to MD173 coming into effect and in current tax return for FY 2024, even more relevant.
- Similar to the option to be taxed on a realization basis, the election to claim the depreciation benefit under MD173 is irrevocable. This election must be made in the first applicable UAE Corporate Tax Return for all investment properties. Picking and

choosing investment properties for MD173 benefits is not allowed.

Transitional Rules and the Cost vs Fair Value Conundrum

Before MD 173, taxpayers using fair value accounting risked permanently losing depreciation deductions. Under the transitional provisions in the Corporate Tax Law (Article 61), the opening tax balance was based on accounting values. For fair value assets, this often meant a potential nil tax base for depreciation because they were measured at their fair value as of the end of the year before the tax period. On the flip side, assets recorded at cost – which could claim depreciation in the books – also benefit from the transitional provisions at the time of sale, allowing taxpayers to exclude gains earned up to 31 December 2023 (Ministerial Decision 120 of 2023).

MD 173 potentially corrects this by introducing a definition of “Opening value,” allowing a retrospective TWDV calculation based on 4% annual depreciation from the date of acquisition (even if this date was before the Corporate Tax Law taking effect). This ensures the tax opening balance is fair, though no catch-up deduction is permitted for earlier periods.

Illustration 1: Transitional TWDV Calculation

Particulars	Example A: 10-Year Hold	Example B: 30-Year Hold
Original cost of property	AED 10 million	AED 10 million
Years held	10 years	30 years
Notional depreciation (4% a year)	AED 4 million	AED 12 million
TWDV at start of tax depreciation regime under MD 173	AED 6 million	AED nil

- In Example A, above, the taxpayer may claim AED 400,000 (4% of cost) in tax depreciation under this decision for the tax period, as TWDV is sufficient (on a straight-line basis for another 15 years).
- In Example B, the TWDV is nil, so no further depreciation is available.

This comparative rule ensures depreciation is only available within a 25-year effective life.

Realization Events

- In line with MD 173, the depreciation deduction provided to taxpayers is reversed in the year when a realization event occurs, such as a sale or transfer.
- In other words, the total depreciation allowed under MD 173 will be added to the taxable income of the taxpayer, which results in the depreciation allowance being a timing difference rather than a permanent deduction.
- In terms of the realization of investment property (to third parties) originally sheltered by reliefs under Article 26 and Article 27 of the UAE Corporate Tax Law, the transferee will include in its taxable income a tax deduction of depreciation. This deduction applies to the extent it relates to the depreciation of the erst while transferor that was not considered under Article 5(1) of MD 173. Based on Illustration 1, above, if the investment property in Example A is sold after being held for 25 years, the total depreciation of AED 6 million claimed over the years will be included in the taxable income.



Group Relief and Business Restructuring Interplay

Under Article 26 (Qualifying Group Relief) or Article 27 (Business Restructuring Relief) of the UAE Corporate Tax Law, a transfer of an investment property (among other assets) is treated as occurring at the transferor's book value for tax purposes.

As illustrated in the Federal Tax Authority's Business Restructuring Relief Guide, any fair value uplift recorded in the transferee's books cannot be depreciated for tax purposes. This is because the underlying gain has not been recognized from a tax perspective. In other words, any book depreciation related to the untaxed gain must be disallowed in the transferee's tax computation. The untaxed gain is the excess of market value over book

value that was not recognized due to the relief.

Moving a step further, Article 2(2) of MD 173 permits the transferor – if it has elected to be taxed on a realization basis and to claim the benefit under MD 173 – to claim a prorated depreciation deduction. This deduction applies to the portion of the tax period up to the transfer date. Correspondingly, Article 5(1) of MD 173 requires the transferee, which records the asset on a cost basis in its books, to reduce its book depreciation deduction for tax purposes. This amount must be reduced by any deduction already claimed by the transferor to prevent a double deduction in that year. MD 173 also applies similar rules to transfers between members of a corporate tax group.

Below is an example that shows these concepts (in the context of a qualifying group transfer):

Particulars	Company A (Transferor)	Company B (Transferee)
Date of transfer	1 July 2025	1 July 2025
Net book value (NBV) of property	AED 10 million	AED 12 million (value recorded in books based on purchase price allocation)
Tax base (TWDV)	AED 10 million	N/A – since the cost model is being adopted, MD 173 does not apply
Tax base (TWDV) Depreciation in books of accounts	N/A (since property had been recorded at fair value)	10% of cost = AED 1.2 million
Depreciation adjustments as per MD 173 and the FTA Qualifying Group Relief guide	<p>Allow as depreciation:</p> <p>4% of cost = AED 400,000 a year</p> <p>Prorated depreciation = AED 200,000 (Jan-June)</p>	<p>Disallow two elements in year of transfer:</p> <ol style="list-style-type: none"> 1. AED 200,000 (claimed by transferor) 2. Depreciation of AED 1 million (from the AED 2 million future value uplift) <p>Further disallowance in year 2</p> <ol style="list-style-type: none"> 1. Depreciation of AED 1 million (i.e., AED 2 million – AED 1 million disallowed in year <p>Hence, depreciation allowed in Year 2 = AED 0.2 million</p>

In summary, the transferee must disallow both the depreciation on the uplifted value and the transferor's partial-year depreciation in the year of transfer. This ensures that only the appropriate depreciation (based on the original book value and non-overlapping ownership period) is deductible for tax.

However, in the case of a clawback event under Article 26 or Article 27 – when the business/assets are sold, or, in the case of Article 27, shares are sold – MD 173 provides equality in treatment. Given that the transferor will be considered to have sold the property at fair market value and deemed to realize a taxable gain, the transferee will get an equal amount of depreciation based on the fair market value (and not net book value).

Pillar 2 and Deferred Tax Considerations

For multinational groups within scope of the OECD's Pillar 2 rules (global revenues \geq EUR 750 million in specified years), the interaction of MD 173 with the effective tax rate (ETR) calculation is critical.

- Depreciation under MD 173 creates a tax deduction without a corresponding accounting expense, lowering the taxable base. Typically, a deferred tax liability (DTL) arises because temporary difference is recognized due to IAS 40 fair value accounting and UAE corporate tax treatment.
- The DTL will go on to increase the current year's tax expense, resulting in a higher ETR for the group in the UAE. However, tax depreciation claimed under MD 173 may not affect Pillar 2 taxable income, which is essentially based on accounting profits. Accordingly, claiming depreciation under MD 173 could have a positive effect on ETR, potentially reducing any top-up tax liability under Pillar 2. This outcome is subject to the DTL recapture rule described below.
- Given that tax depreciation will eventually need to be added back to taxable income on a realization event, this results in a reversal of the deferred tax liability.

Therefore, the recapture rules under Pillar 2 will need to be reviewed. Any DTL not reversed within five years will have to be recaptured to nullify its effect on the group's ETR.

- Multinational groups need to separately track such DTL to determine the time frame in which they are expected to reverse for Pillar 2 purposes. Entities also have the option to exclude a DTL in a given year if it is not expected to reverse within five years.
- In the case of a transfer of assets within a domestic tax group, where such transfer is eliminated on consolidation, the effect of tax depreciation (and corresponding DTL) may need further evaluation. This is particularly necessary if the group elects to compute Pillar 2 taxable income based on a consolidated statement of the domestic tax group.

Groups should model both scenarios carefully, balancing cash flow benefits with Pillar 2 compliance.

Key Considerations and Action Points

To prepare for the impact of MD 173, taxpayers should:

1. Review Investment Properties: Identify those held at fair value and compute their TWDV.
2. Model Both Approaches: Compare annual depreciation with the realization basis election and unrealized basis (accrual method of accounting).
3. Align Group Transfers: Ensure intra-group property transfers comply with Article 26 and external mergers and acquisitions (M&A) comply with Article 27 requirements, thereby avoiding clawbacks.
4. Update Tax Registers: Incorporate MD 173 computations into fixed asset registers and tax compliance processes.
5. Assess Pillar 2 Exposure: Model potential ETR impacts and deferred tax outcomes.



Final Thoughts

MD 173 represents a thoughtful response by the UAE Ministry of Finance to a technical yet highly practical issue facing many taxpayers. The decision provides a clear and equitable framework for recognizing depreciation on investment properties held at fair value, while ensuring tax integrity is preserved through comparative tests and clawback mechanisms.

For businesses, the implications go far beyond annual depreciation claims. The interaction with group relief, business restructuring relief and Pillar 2 means decisions taken today can have long-term effects on tax outcomes, effective tax rates and restructuring strategies. With the advent of MD 173, restructurings and M&A transactions will need to include appropriate language in transaction documentation to protect respective parties, coupled with suitable pricing considerations in case of the allowability of depreciation depending on whether Article 26 or Article 27 reliefs are claimed.

Taxpayers should act promptly to assess their positions, make informed elections and prepare their tax returns accordingly. By doing so, they will not only achieve compliance but also ensure optimal outcomes under the UAE's evolving corporate tax framework.

For a discussion on this important development in the UAE, please contact the FTI Consulting Middle East Tax Team (details below):



NILESH ASHAR

Head of Tax Middle East
+971 54 5847438
nilesh.ashar@fticonsulting.com

SAMEEP S UCHIL

Managing Director, M&A and International Tax
+971 50 683 9484
sameep.uchil@fticonsulting.com

AASTHA JAIN

Managing Director, Corporate Tax and Pillar 2
+971 55 9054093
aastha.jain@fticonsulting.com

The views expressed herein are those of the author(s) and not necessarily the views of FTI Consulting, Inc., its management, its subsidiaries, its affiliates, or its other professionals. FTI Consulting, Inc., including its subsidiaries and affiliates, is a consulting firm and is not a certified public accounting firm or a law firm.

FTI Consulting is the leading global expert firm for organisations facing crisis and transformation, with more than 8,300 employees in 34 countries and territories. FTI Consulting is dedicated to helping organisations manage change, mitigate risk and resolve disputes: financial, legal, operational, political and regulatory, reputational and transactional. FTI Consulting professionals, located in all major business centres throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges and opportunities. © 2025 FTI Consulting, Inc. All rights reserved. [fticonsulting.com](https://www.fticonsulting.com)