



## Real Estate Levy – Declarative obligations by 31 May 2022

**Not only funds holding Luxembourg  
real estate are concerned !**

**The 2021 Budget Law of December 19, 2020 introduced, by means of its Article 4, new filing obligations towards certain investment vehicles, regarding the Real Estate Levy of 20% on income and gains from Luxembourg real estate (see also our earlier alert [here](#)). However certain Part II funds, SIF and RAIF have declarative obligations as well, whether they hold Luxembourg real estate or not !**

The provisions of Article 4 define:

- The scope of taxpayers subject to the Levy (A.);
- The type of income targeted by the Levy (B.);
- The filing and payment obligations of the Levy (C.).

On January 20, 2022, the Luxembourg Tax Authorities released a circular (*PRE\_IMM n° 1*) providing additional explanations regarding the Real Estate Levy provisions of the 2021 Budget Law.

## A. Scope of taxpayers subject to the Real Estate Levy:

According to the provisions of Article 4 of the 2021 Budget Law, the funds that fall within the scope of application of the Real Estate Levy must meet two simultaneous conditions:

### 1. They are investment vehicles with legal personality, falling under one of the following regimes:

- Undertakings for Collective Investment (UCIs) under part II of the amended Law of December 17, 2010;
- Specialized Investment Funds (SIFs) under the amended Law of February 13, 2007;
- Reserved Alternative Investment Funds (RAIFs) related to the amended Law of July 23, 2016.

Investment vehicles, incorporated under the form of a “Société en Commandite Simple” (SCS), are excluded from the scope of application of the Real Estate Levy (as, despite their legal personality, they are tax transparent). Investment vehicles under the form of a “Société en Commandite Spéciale” (SCSp) are anyway out of scope (as they do not have legal personality). Part II funds, SIF and RAIF under the legal form of e.g. SA and SCA are in scope of these provisions.

### 2. They hold, directly or indirectly (but then only, through tax transparent entities or through contractual funds-FCPs), real estate assets located in the Grand Duchy of Luxembourg. However, even if no such real estate is held, an information form must be filed (see below).

## B. Income targeted by the Real Estate Levy:

The Real Estate Levy applies to the following income derived during the reportable year, from Luxembourg real estate held (directly or indirectly, as defined above) by the investment vehicle:

- Gross rental income (excluding VAT);
- Capital gains from the disposal of Luxembourg real estate;
- Capital gains derived from the disposal of units/interest/shares held in a tax transparent entity or FCP, holding real estate in Luxembourg (indirect ownership).

The Real Estate Levy is applied at a rate of 20% over the total real estate income of the reportable year.

### C. Filing obligations, and payment of the Real Estate Levy:

In scope investment vehicles should submit specific tax form(s) via MyGuichet.lu:

- A tax form entitled “statement of information on the holding or the absence of holding of real estate located in Luxembourg or on the change of legal form”. This form must be filed by 31 May 2022, regarding the civil years 2020 and 2021, and must indicate whether, during these civil years, the fund held real estate located in Luxembourg (directly, or through a tax transparent entity or FCP), or not. Through this form the Luxembourg Tax Authorities must also be informed in respect of a change of a tax opaque legal form to a tax transparent legal form.

**Take care:** this “information” form is also due by in scope Part II funds, SIF and RAIF that did not hold any Luxembourg (or foreign) real estate. Furthermore, the information form is not mandatory if the fund submits the second tax form below (i.e. tax form in presence of real estate revenue).

- A tax form entitled “*statement on the real estate levy for the tax year*” specifying the nature of the real estate held in Luxembourg (land or building), the type of ownership (direct or indirect) and the kind of income generated by the Luxembourg real estate during the reportable year (highlighted in section B.). This form must also be filed by 31 May 2022, regarding 2021.

Additionally, the filing of this form must also be supported by a report from an independent auditor certifying the taxable basis of the Real Estate Levy.

Should the in-scope fund hold (directly or indirectly, as defined above) Luxembourg real estate that did not (yet) generate revenue, filing the informative form is sufficient. However, in such case, it is expected that the Luxembourg Tax Authorities will request further evidence regarding the absence of such real estate revenue.

As mentioned above the (first) filing deadlines for both types of tax forms are 31 May 2022. The “*statement on the real estate levy for the tax year*” will continue to be due by 31 May of each following year.

Should the electronic filing not have been made in due time, the taxpayer is exposed to a lump-sum penalty of EUR 10.000.

Where applicable, the deadline for the payment of the Real Estate Levy is 10 June of the following year (i.e. 10 June 2022 for the levy due regarding 2021).

## Contacts

Hugo Dumas,  
Partner, Head of Tax  
Mazars in Luxembourg  
[hugo.dumas@mazars.lu](mailto:hugo.dumas@mazars.lu)

Alain Verbeken,  
Director, Tax - Financial Services  
Mazars in Luxembourg  
[alain.verbeken@mazars.lu](mailto:alain.verbeken@mazars.lu)

Flavien Canepa,  
Senior Manager, Tax  
Mazars in Luxembourg  
[flavien.canepa@mazars.lu](mailto:flavien.canepa@mazars.lu)

Mazars is an internationally integrated partnership, specialising in audit, accountancy, advisory, tax and legal services\*. Operating in over 90 countries and territories around the world, we draw on the expertise of more than 44,000 professionals – 28,000+ in Mazars' integrated partnership and 16,000+ via the Mazars North America Alliance – to assist clients of all sizes at every stage in their development.

\*Where permitted under applicable country laws

[www.mazars.lu](http://www.mazars.lu)

**mazars**