

The Newsletter in brief

Special edition on the 2026 Finance Act (FA)

- ❖ Article 69 FA strengthened controls on VAT refund operators (sales to travelers).
- ❖ Article 69 FA also introduced numerous amendments to the recently adopted Code des impositions sur les biens et services (Code on Taxation of Goods and Services "CIBS"): taxation of nuclear facilities, new authorization to recodify scattered taxes in the CIBS, strengthening of control procedures in the oil energy sector, and distribution of powers over time to recover past adjustments.
- ❖ Article 71 FA makes various changes to the taxation of energy used for heating, including a change in the rules for indexing the excise tax on electricity to inflation and a simplification of the reduced rates of this excise tax in favor of electricity-intensive companies exposed to international competition.
- ❖ Article 81 FA recodifies the general tax on polluting activities within the framework of three new taxes on waste (landfilled waste, incinerated waste, and radioactive waste and associated metal waste). Rates will increase further. This is not a reform on the basis of established law without change (a "recodification" usually aims not to change the rights and obligations).
- ❖ Article 82 FA creates a tax on small e-commerce parcels of €2 per item of merchandise.
- ❖ Article 99 FA modifies the overseas "dock dues regime". It requires local authorities to communicate their deliberations on fixing the rates of the dock dues to Customs.

FINANCE ACT 2026

Finance Act No. 2026-103 of February 19, 2026 was published in the Official Journal on February 20, 2026, after a review by the Constitutional Council (ruling 2026-901 DC of February 19, 2026). The press widely reported on the extreme difficulty of the debates. The initial text of 81 articles resulted in a law adopted with 207 articles, of which the Constitutional Council invalidated eight.

Among the articles that had been included in the initial finance bill and concerned customs matters, energy taxation, and environmental taxation, the government was forced to abandon two points:

- The government's intention to extend the TIRUERT (incentive tax on renewable energy in transport) in order to increase its requirements and strengthen the framework governing operators' rights was ultimately stripped of its substance (Article 64). The TIRUERT will be replaced by a new non-tax mechanism called IRICC on January 1, 2027.
- Similarly, in Article 23 of the initial bill, the government had planned to tax all products and operators selling vaping products. After lengthy discussions, the government withdrew this reform at the last minute.

A dozen articles (hereafter xx FA) introduce changes in areas falling within the firm's area of expertise, namely customs law and energy and environmental taxation, and more generally the taxation of goods and services.

Most of these amendments affect the 2022 Code of Taxation on Goods and Services (CIBS) (yet another “greening of vehicle taxation,” which is rather dull, in Article 58), while others affect the Customs Code (CD) or the General Tax Code (CGI).

The main innovations are as follows:

Reform of the tax-free shopping operator regime

Article 69 FA significantly strengthened the regulatory framework governing VAT tax-free shopping operators for sales to non-resident travelers (Article 262-0 bis of the General Tax Code).

The objectives are “*to guarantee the financial solvency of tax-free operators, to create penalties for operators carrying out this activity without authorization or despite the withdrawal of their authorization, and to take into account developments in customs teleservices that are due to come into force in 2026.*” (report of the Finance Committee of the National Assembly in the second reading).

Changes to the CIBS

Article 69 FA introduces numerous changes to the CIBS.

Taxation of basic nuclear facilities (Article 18 of Law 2025-127 on finance for 2025) has been amended to reduce the tax burden on research reactors and other nuclear reactors, in order to facilitate the development of small modular reactors (SMRs)

The text also includes an authorization for the Government to continue recodifying sectoral taxation on goods and services, by presidential orders.

Several authorizations have been granted under successive finance laws for periods generally lasting two years. However, certain taxes in the environment and food sectors still need to be recodified, and air safety charges still need to be transcribed as “taxation of any kind.”

Article 69 of the Finance Act once again legislates on the chaotic process of transferring powers in the field of energy taxation. The control and collection of excise duties on coal, natural gas, and electricity were transferred to the DGFIP (Directorate-General responsible for collecting taxes and duties other than customs duties) in 2022. With regard to oil, after numerous postponements, the DGFIP will become responsible for the collection of excise duties on energy – “energy products” (oil) – on January 1, 2027. However, the complexity of the physical controls to be carried out will result in a sharing of powers. Customs will remain responsible for all “monitoring and management measures” generally provided for in Article L.311-39 CIBS, to which Article L.312-106 CIBS refers, concerning the production, storage, and circulation of petroleum products.

Article L.312-106-1 CIBS was revised by the 2026 Finance Act to confirm the applicability in 2027 of the provisions of Articles 60-1 to 60-10, 61, 62 to 64, and 67 quinquies B CD, namely the control tools routinely used by the Customs agents (without the right of communication provided for in Article 65...).

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Customs will also continue to collect “outstanding amounts” (“restes à recouvrer” said : “RAR”) on adjusted transactions relating to tobacco and alcohol excise duties and levies subject to the same rules. For these products, the transfer of jurisdiction took place on January 1, 2024.

In fact, according to the “Preliminary Assessments,” the administration found it “*operationally impossible to distinguish between RARs falling under the jurisdiction of the DGFIP and RARs falling under the jurisdiction of the DGDDI (which remains, in any case, responsible for the collection of excise duties on alcohol, tobacco, and imports).*”

These developments illustrate the great complexity of the transfers of jurisdiction between Customs and the DGFIP that have been implemented since 2019.

Transfer of recoveries of fines and taxes previously recovered by Customs accountants

Article 70 FA extends and strengthens the system of collection and seizure of guarantees by DGFIP accountants for claims that were the responsibility of DGDDI accountants prior to the transfer of “RARs,” in particular fines and confiscations imposed in the field of Customs infringements by criminal judgments handed down before April 1, 2023.

As of October 20, 2025, there were 13,081 claims and €2.28 billion remaining to be recovered.

Customs will also remain responsible for recovering unpaid duties and taxes relating to petroleum taxation for transactions prior to the “transfer of jurisdiction” set for January 1, 2027.

Changes to taxation on energy used for heating

Article 71 FA introduces various changes to the taxation of energy used for heating.

Firstly, Article 71 FA extends the reform developed by Article 19 LF 2025 (see our Newsletter No. 56, February 2025) in order to neutralize certain effects related to the “VAT carryover” borne by the electricity transmission system operator (RTE) due to its direct management of the “capacity mechanism” (designed to guarantee electricity supply in all circumstances). The reform results in a marginal reduction in the excise duty on electricity with view to bringing it closer to the excise duty levied on other heating energies.

Secondly, the mechanism for indexing excise duty on electricity has been revised. The inflation index used has been changed so that external events do not amplify price increases through excise duties indexed to the general consumer price index. A specific INSEE index will now be used (the underlying inflation index).

The text also simplified the reduced excise duty rate on electricity in favor of “*activities exposed to international competition*,” which will now be uniformly taxable at €0.5/MWh. According to the report of the Assembly's Finance Committee at first reading, “*the aim is to simplify and strengthen the consistency of the tax scale by removing the subtle and unnecessarily complex distinctions it contains, since, once a company belongs to a sector exposed to international competition, there is little point in*

discriminating between companies according to their level of electricity intensity.”

In addition, the reduced rate applicable to data centers has been reduced from €12/MWh to €10.

The Senate wanted to take advantage of this provision to “*initiate a process of convergence between the excise duties applied to electricity and gas.*” The aim was to promote the consumption of electricity produced in France at the expense of natural gas, most of which is imported. The Senate proposed reducing the standard excise duty rate applied to residential electricity consumption by €3/MWh and the standard rate applied to business electricity consumption by €0.42. It also wanted to increase the standard excise duty rate applied to natural gas consumption by €4.40/MWh.

The Government did not accept this proposal. In its latest report on January 28, 2026, the Senate described the government's decision as “*inconsistent with the energy transition imperative and France's commitments in this area. (...) In the current geopolitical context, [this decision] undermines our sovereignty by perpetuating an anachronistic incentive to maintain our strategic dependence on gas imports from hostile or competing powers...*”

This position illustrates the acrimony of budget debates in the face of insoluble “conflicts of objectives”.

Recast of waste taxation

Article 81 FA overhauls waste taxation. Since 1992, the landfilling and incineration of hazardous and non-hazardous waste has been subject to a tax, the “general tax on polluting activities” (TGAP), which was collected by the Customs administration from 2000 to 2020.

The control and collection of this tax was then transferred to the Directorate General of Public Finances, without any changes being made to the rules on assessment and collection contained in the CD.

As this is a tax applicable to a specific sector but which is not an excise duty, waste taxation was intended to be incorporated into the CIBS. This has now been done by Article 81 of the Finance Act.

The reform resulted in a large body of articles (L.433-1 to L.433-105 CIBS) and structural changes. It is not a reform under existing law, which is why it was not ultimately implemented by presidential order.

The acronym “TGAP” has been dropped. From now on, there will be a “tax on waste disposal,” a “tax on incinerated waste,” and a “tax on radioactive metal waste and other metal waste stored with it.”

The TGAP tax on non-hazardous waste currently generates €865 million per year. The TGAP has had an incentive effect on reducing landfill (an 8% decrease per year from 2020 to 2023). However, incineration volumes remain stable. The landfill reduction targets (-50% in 2025 compared to 2010) set in 2015 (“LTECV” Law No. 2015-992 of August 17, 2015) have not been achieved.

The legislature is raising rates once again. The trajectory for increasing TGAP rates was set by the LF for 2019, with a steady increase from 2019 to 2025 accompanied by simplifications (phasing out of reduced rates for the landfill of non-hazardous waste). This trajectory has been extended until 2030 with an increase in these rates of around 10% per year for landfill.

In return, the legislator has decided to remove the €5 to €10 surcharge for exceeding the annual landfill cap per site, which had been in place since 2024 and proved too complex.

It is striking to note that the rate applicable to the reception of one ton of non-hazardous waste in a standard storage facility (excluding any reduced rates) will have risen from €15 in 2009 to €40 in 2015, €41 in 2019, €65 in 2025, and was set to reach €105 in 2030.

The Senate has secured a slower trajectory (€85/ton in 2030, Art. L.433-57 CIBS). Waste taxation is therefore becoming a major issue for operators. Taxation on hazardous waste (landfilled or incinerated) remains unchanged but is simply indexed to inflation.

The rate structure for incineration provides for reduced rates with a lower increase trajectory for waste thermal treatment facilities that recover energy from waste with the highest energy efficiency coefficient (exceeding 0.70). The rates are adjusted for the period 2026-2030 (€8/ton in 2026, €10/ton in 2030, Art. L.433-90 CIBS). The tariff for the incineration of non-hazardous waste with energy recovery below 0.65 will increase from €25 to €45/ton from 2025 to 2030 (Art. L.433-86 CIBS). The Senate wanted a stronger trajectory to promote recycling and discourage incineration, but this was not followed.

The government also wanted to ensure that sorting centers were encouraged to send their waste to “solid recovered fuel” (SRF) facilities rather than landfills, by significantly increasing the landfill tax. This would enable operators of “RDF boilers” to increase their prices and make their activity viable, according to the “Preliminary Assessments” (point 1.4.2 under draft art. 21).

The new “tax on waste disposal” / sent to landfill includes several changes compared to the previous text, which cannot be explained in the format of this Newsletter.

However, it should be noted that the surcharge for “irregular transactions” has been increased from €110 to €200 per ton for each tax (Articles L.433-40, L.433-58, and L.433-88 of the CIBS). Art. L.433-6 CIBS defines what constitutes an “irregular transaction,” which is a new feature.

In addition, the text provides for a “*simplification measure, with the application of a 5.5% VAT rate to all services purchased by local authorities for waste collection and treatment*” (explanatory memorandum released upon the filing of the bill).

The TGAP surcharge, which has been authorized since 2006 for municipalities hosting storage or incineration centers, under Article L. 2333-92 of the General Code for Local Authorities, has been renewed. The conditions of anteriority for such municipalities to levy the tax, which had been in place for too long (relative to situations dating back to 2002 and 2006), have been removed.

It is now a “surcharge” on the “tax on waste sent to landfill.” One of these antediluvian conditions (the one concerning the year 2002) was recently declared unconstitutional by the Constitutional Council, which validated the condition concerning the year 2006 (decision 2025-1179 QPC of January 30, 2026).

The government had planned to create a tax on plastic packaging as part of the structuring of “extended producer responsibility” (with a view to reducing waste production at source and facilitating recycling upstream), which would have been borne by the “eco-organizations” that deal with this sector.

Parliamentary proceedings are thus drawing attention to a new resource specific to the European Union, based on non-recycled plastic waste. This involves a payment by France to the EU budget (€0.80/kg) calculated according to the recycling rate for plastic packaging. It should be noted that France is lagging behind in this area and does not recycle enough plastic (25% compared to an EU average of 42%). France therefore accounts for 22% of the Member States' contribution.

After heated debates, the Senate succeeded in preventing this tax from being implemented.

This article is the result of heated debates in the National Assembly and the Senate, illustrating the growing challenges of environmental taxation.

Tax on small parcels

Article 82 introduces a “tax on the importation of goods contained in low-value consignments” (in practice: “tax on small parcels”).

The flood of small parcels, mainly originating from and/or coming from China, could not go unnoticed by the public authorities. Since the e-commerce directives came into force in July 2021, VAT has in principle been collected on the actual value of the product, while a €150 allowance per shipment applies to the collection of customs duties.

The “Preliminary Assessments” reveal staggering growth in the flow of goods arriving mainly at Roissy-CDG airport. Under the simplified “H7” declaration system, the flow has increased from 170 million items in 2022 to 410 million in 2023 and 775 million in 2024 ...

As noted in the report by the Assembly's Finance Committee, *"The end of customs duty exemptions on small parcels introduced in the United States in August 2025 seems to be accelerating this trend."*

Freight in the context of e-commerce has thus become considerable, alongside traditional cargo flows (in containers) and flows handled by express carriers, which have changed little. Physical Customs controls have not kept pace. Customs is overwhelmed by the flow. The simplified "H7" system contains too little data to allow for serious documentary checks. 80% of physically inspected packages were found to be non-compliant with standards, counterfeit, or even dangerous to health.

The underestimation of the VAT tax base is chronic.

Nevertheless, the administration is developing the installation of a postal parcel scanner equipped with artificial intelligence imaging software, which, according to the Minister of Public Accounts, would be very effective.

In April 2025, the European Union decided to propose the introduction of "processing fees" on small parcels, which were to come into force in 2028. This will be a flat-rate fee per item, to be defined by regulation at the EU level. At the instigation of France in particular, the timetable has been brought forward for the fee to be implemented across Europe by November 1, 2026, at the latest.

On December 12, 2025, the Council of the European Union decided to apply, in addition, fixed customs duties of €3 on small parcels worth less than €150 entering the EU, largely through e-commerce, from July 1, 2026.

As the EU Council notes on its website, *"These customs duties will apply to all goods entering the EU when sold by a non-European seller registered with the EU's single window for imports (IOSS) for value-added tax purposes."* (i.e., the "H7" system). The Regulation No. 2026/382 of February 11, 2026 was adopted for this purpose.

France wanted to introduce an interim tax on inspection costs.

The mechanism put in place is not a customs duty, for which France would not have jurisdiction. However, it corresponds to the *"payment of fees"* or the recovery of *"costs for specific services rendered"* that are authorized by Article 52 § 2 d) of the Union Customs Code, in this case inspection costs. As the administration already states on its website, *"The tax applies to shipments from third countries to the EU destined for mainland France, Martinique, Guadeloupe, Réunion, and Monaco. This tax does not apply to trade between mainland France and the communities governed by Article 73 of the Constitution."*

Imports from territories that are not part of the customs territory of the Union but belong to a Member State will not be taxed, nor will imports to Mayotte and French Guiana. The tax is applicable in Saint Martin.

The rate applied is €2 per item, i.e. per goods falling under the same tariff subheading, on a flat-rate basis. As noted in the report of the Assembly's Finance Committee, *"This approach greatly simplifies management and reflects the main objective: to make flows contribute not proportionally to their sale price, but according to the administrative and control burden they generate for Customs."*

Thus, all goods in a package whose tariff classification has the same first six digits (known as “HS6” as mentioned on the Customs website) will be counted as a single item.

The Senate wanted to increase the amount to €5 in order to have a larger funding pool to equip Customs with high-performance scanners.

The person liable for the tax is the person who pays VAT under the e-commerce system. If the Customs declarant is not liable for VAT in this case, they must forward the amount of tax payable to the person liable. The latter must then settle and pay for the tax on their VAT return along with other taxes on goods and services (ref. to Art. L.161-1 CIBS).

If the declaration is made for a non-VAT taxpayer, for whom Customs retains residual collection powers (Art. 1695 CGI), the tax will be payable to Customs together with VAT. This will be rare.

The tax will come into force on March 1, 2026. It will therefore be repealed on December 31, 2026, at the latest, when the EU measure comes into force.

Parliamentary debates focused on the impact of the tax on consumers and the effectiveness of such a tax limited to the national level, which carries the risk of diverting traffic. However, Belgium, Luxembourg, and the Netherlands will proceed in the same way as France.

Changes to Overseas « dock dues »

Article 99 FA is the result of amendments made in the Senate. It adjusts the dock dues system in French Overseas Departments and Regions. This tax is provided for by Law No. 2004-639 of July 2, 2004, which has been amended several times and, according to parliamentarians, requires more significant reform.

1. Article 99 FA improves the flow of information between Customs and the local authorities that benefit from dock dues.

In an editorial published in January 2025 in the Lexbase journal “*L’octroi de mer ou la rencontre de l’imprévisible avec l’inintelligible*” (Dock dues: where the unpredictable meets the incomprehensible), Vincent Courcelle-Labrousse discussed some of the problems encountered by operators importing products into the DROMs (French Overseas Regions and Departments):

“Secondly, access to information on the tax status of a given product is below the minimum acceptable level. Local authorities’ deliberations on dock dues are ‘published’ on their websites in the register of administrative acts (RAA). But it is a stroke of luck when this register contains a separate section specifically devoted to dock dues. It can happen that a deliberation gets lost in a jumble of other decisions. While it is up to the Customs administration, which is responsible for collecting dock dues, to enter the deliberations of local authorities (rates, exemptions, reductions) into its RITA database, the Customs interface is sometimes not up to date... Is it a delay on the part of the customs services or a failure by local authorities to communicate their decisions? It’s a mystery.”

A realization dawns.

A new Article 59 ter of the CD was to draw up a list of customs information that Customs should send to local authorities concerning the application of dock dues exemptions and those liable for dock dues on local products, before June 1 of each year (Article 31 of Law No. 2004-639). This communication of information was to be part of the strategy to combat the “high cost of living” in overseas territories.

However, the Constitutional Council ruled that this provision had no place in the Finance Act (point 270 of the decision of February 19, 2026, censuring Article 99 § I FA).

It is provided that local authorities must send the Customs authorities their annual deliberations setting the dock dues (amended Article 27 of Law No. 2004-639). This provision, set out in Article 99 § II FA, was not censured by the Constitutional Council.

A decree will set out the procedures for communicating the deliberations of the deliberative bodies. The provisions set out in these deliberations will come into force no later than three months after their communication.

There has been much debate in the Senate, with overseas parliamentarians opposed to Customs interference in the legal process for bringing their deliberations into force, which are in any case forwarded to the prefect for review of their legality.

While some senators protested being placed under supervision by the obligation to forward their deliberations to Customs, this measure may have the merit of avoiding the discovery, years later, that the taxation of a particular product had been changed.

2. Technical amendments have also been implemented.

The use of tariff classification rules for dock dues, which had already been noted (see our comments under the amended finance law for 2016 No. 2016-1918 of December 29, 2016, Newsletter No. 22 January-February 2017), has been reinforced. Thus, the exemption for goods intended for establishments or legal entities engaged in scientific, research, or teaching activities (Article

6(2) of Law 2004-639) will now be controlled by *"economic sector and tariff heading of the combined nomenclature defined by the aforementioned Council Regulation (EEC) No. 2658/87 of July 23, 1987, under conditions determined by decree."*

According to the report of the Finance Committee of the National Assembly in its new reading, this addition was made *"to prevent nominative advantages and guarantee equality before taxation."* The same rule applies to exemptions granted for the importation of goods intended for a person engaged in an economic activity (1° of Art. 6, already drafted in substance, subject here to a simple editorial amendment).

The text also clarifies the scope of taxable production activities by specifying the definition of agricultural activities as enacted by Article L. 311-1 of the Rural and Maritime Fishing Code.



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