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Policy Forum: The Thresholds Set for Automobiles—Are Tax Policies Outdated in Light of New Challenges?

Annick Provencher*

PRÉCIS

La Loi de l'impôt sur le revenu a souvent été critiquée pour sa complexité et ses distinctions arbitraires. Cet article propose une réflexion concernant deux de ces seuils arbitraires, relatifs aux automobiles : la limite d'utilisation personnelle, fixée à 20 004 kilomètres, afin de réduire l'avantage pour droit d'usage d'un véhicule lorsqu'une voiture est mise à la disposition d'un employé et le plafond du coût en capital des voitures pour les fins du calcul de l'amortissement. L'article retrace l'évolution historique de ces seuils et soutient qu'ils ne correspondent peut-être plus aux objectifs initiaux de politiques fiscales. La limite de 20 004 kilomètres, introduite pour considérer les situations d'usage minimal à des fins personnelles, semble s'être éloigné de cet objectif. Le plafond fixé pour le coût en capital des automobiles, conçu pour empêcher le financement de voitures de luxe avec des fonds publics, soulève des questions sur sa suffisance, après des années sans ajustements. L'article suggère enfin que les questions environnementales n'ont probablement pas été considérées au moment de l'introduction de ces mesures. Dans ce contexte, il propose aux décideurs un réexamen des mesures liées aux automobiles afin de tenir compte des changements sociaux, économiques et environnementaux, compte tenu des engagements du Canada relatifs à la réduction des émissions de gaz à effet de serre.

ABSTRACT

The Income Tax Act has often been criticized for its complexity and arbitrary distinctions. This article offers a reflection on two of these arbitrary thresholds related to automobiles: (1) the personal-use limit of 20,004 kilometres, to reduce the standby charge benefit; and (2) the ceiling for the capital cost of an automobile for the purposes of calculating the capital cost allowance. The article traces the historical evolution of these thresholds and argues that they may no longer align with their original tax policy objectives. The 20,004-kilometre limit, introduced to address situations of minimal personal use, seems to have deviated from this objective. The

* Of the Faculty of Law, University of Montreal (e-mail: annick.provencher@umontreal.ca).

capital cost limit, designed to prevent the financing of luxury cars with public funds, raises questions about its sufficiency after years without adjustments. The author suggests that environmental considerations were likely not considered when these measures were introduced. In this context, she proposes that policy makers reconsider measures related to automobiles to account for social, economic, and environmental changes, especially considering Canada's emphasis on reducing greenhouse gas emissions.

KEYWORDS: AUTOMOBILES ■ CAPITAL COST ALLOWANCE ■ EMPLOYEE BENEFITS ■ TAX POLICY

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INTRODUCTION

The federal Income Tax Act[1] has been described as the "most complex and replete with distinctions of any [statute] in Canada."[2] Some of these distinctions are based on income, but many of them are arbitrary, determined by economic, social, or statistical criteria. When it comes to automobile taxation, several arbitrary thresholds are in place to ensure tax fairness and administrative efficiency. These thresholds encompass rules such as the per-kilometre rate used to calculate operating expense benefits for vehicles,[3] the prescribed limit for deducting interest expenses when acquiring a motor vehicle,[4] and the threshold governing the deductibility of vehicle leasing costs.[5] Such arbitrary thresholds impose constraints on deductibility and determine the quantification of benefits associated with motor vehicle use.

Setting these thresholds is not a trivial exercise. Ill-suited thresholds can have an impact on the fairness and neutrality of the tax system. It is also difficult to reflect on automobile taxation without considering the possible environmental impacts of

1 RSC 1985, c. 1 (5th Supp.), as amended (herein referred to as "the Act"). Unless otherwise stated, statutory references in this article are to the Act.

2 *Thibaudeau v. Canada*, [1995] 2 SCR 627, at 662.

3 Paragraphs 6(1)(k) and (l).

4 Section 67.2.

5 Section 67.3.

tax policy.[6] Because Canada currently emphasizes greenhouse gas (GHG) emission reduction targets[7] and increasingly uses tax legislation to that end, the environmental dimension of tax policy assumes paramount significance. While most measures pertaining to automobiles primarily serve the purpose of income calculation and align with the normative framework of the law (that is, they are not tax expenditures), inadequate thresholds can unintentionally incentivize environmentally detrimental behaviour. Consequently, it may be relevant to contemplate the prospect of mobilizing these same tax measures to discourage excessive reliance on automobiles. It is noteworthy that GHG emissions stemming from the transportation sector account for 22 percent of Canada's total emissions,[8] with passenger transportation contributing to 51 percent of that figure.[9] Moreover, in 2021, an overwhelming majority of workers (83 percent) commuted to their workplaces by car, with nearly all of them undertaking solitary journeys.[10] It is therefore important to question the policy objectives that justify these thresholds to determine whether they are still appropriate.

This article focuses on the origins of two limits imposed on the use of an automobile for employment or business purposes. The first is the 20,004-kilometre limit on personal use restricting the availability of the reduction of the standby charge.[11] The other threshold examined is the ceiling set for the capital cost of a passenger car in the calculation of capital cost allowance (CCA).[12] This article does not provide a comprehensive analysis of the relevance or merits of the imposed limits and their underlying fiscal policy. Instead, it encourages policy makers to engage in deeper reflection, ensuring that these longstanding measures remain relevant in light of social and economic changes.

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6 Michelle Harding, *Personal Tax Treatment of Company Cars and Commuting Expenses: Estimating the Fiscal and Environmental Costs*, OECD Taxation Working Papers no. 20 (Paris: OECD, 2014), at 8.

7 Environment and Climate Change Canada, "Government of Canada Confirms Ambitious New Greenhouse Gas Emissions Reduction Target," *News Release*, July 12, 2021 (www.canada.ca/en/environment-climate-change/news/2021/07/government-of-canada-confirms-ambitious-new-greenhouse-gas-emissions-reduction-target.html). See also Environment and Climate Change Canada, *Canada's Climate Actions for a Healthy Environment and a Healthy Economy* (Gatineau, QC: Environment and Climate Change Canada, 2021), at 6.

8 Environment and Climate Change Canada, *Greenhouse Gas Emissions: Canadian Environmental Sustainability Indicators* (Gatineau, QC: Environment and Climate Change Canada, 2023), at 10.

9 In 2021. These data include passenger cars and passenger light trucks; ibid., at 10-11 and 26-27.

10 StatsCAN Plus, "Canadians' Commutes: Still Car-Heavy, But Some Lighter Footprints," *Statistics Canada*, June 9, 2023 (www.statcan.gc.ca/o1/en/plus/3798-canadians-commutes-still-car-heavy-some-lighter-footprints).

11 Paragraph 6(1)(e) and subsection 6(2).

12 Paragraph 13(7)(g) and regulation 7307.

PERSONAL USE OF A COMPANY CAR BY AN EMPLOYEE

When an employer puts a car at the disposal of an employee, the latter is advantaged if he or she can use the vehicle for personal purposes. This benefit received by the employee corresponds to the fixed costs that the employee would typically incur to have a vehicle:

> This is because the car is available to the employee for their own use at all times and the value of the vehicle for their own use is not diminished by the fact that it is also used for business purposes. It is based on the opportunity cost principle and is effectively, the amount the employee would have to pay if they were to purchase the same benefit for themselves.[13]

The use of a company car by an employee provides an economic advantage that should be added to the employee's income. The Act therefore provides that an amount that is a "reasonable standby charge for the automobile" is to be added to the employment income of an employee in that situation.[14] Because it can be difficult to determine the value of this benefit for an employee, "[t]o minimize the potential for litigation in respect of such benefits, the Act provides a rigid formula"[15] to calculate the taxable benefit. Using the formula in subsection 6(2), the amount of the benefit is 2 percent of the car's cost per month if the automobile was acquired by the employer, which corresponds to 24 percent of the car's cost annually.[16] If the vehicle is leased by the employer, the reasonable standby charge is two-thirds of the leasing fees minus the cost of insurance against loss, damage to the automobile, or liability arising from its use.[17]

It is possible to reduce the standby charge if the distance travelled with the automobile occurs primarily in connection with or in the course of the office or employment.[18] Generally, this criterion requires that the distance travelled with the vehicle for employment-related reasons exceeds 50 percent of the kilometres travelled with the vehicle in a given year. To qualify for the reduction, the employee must also have travelled less than 1,667 kilometres with the vehicle for personal purposes within a 30-day period, which equates to 20,004 kilometres per year.[19] It is this variable—

13 Harding, supra note 6, at 33.

14 Paragraph 6(1)(e) and subsection 6(2). The scope of this article does not allow for coverage of the rules pertaining to salespersons.

15 Vern Krishna, *The Fundamentals of Canadian Income Tax*, 5th ed. (Toronto: Carswell, 1995), at 203-4.

16 Subsection 6(2).

17 Ibid.

18 Element A of the formula in subsection 6(2).

19 Elements A and B of the formula in subsection 6(2).

namely, the limit on kilometres travelled for personal purposes in a year—that will be the first focus of this section of the article.

The Objectives of Fiscal Policy Concerning the Established Threshold

The rules taxing the availability to the employee of the employer's vehicle were implemented during the 1972 fiscal reform. The Royal Commission on Taxation advocated for the inclusion of the value of non-cash benefits in the employee's income, on the basis of the principle of equity:[20]

> The administration has not been sufficiently stringent in bringing employee benefits in kind into tax. Faced with high taxes on money income on the one hand, and the possibility of no tax on non-cash benefits on the other, employers and employees have found it attractive to substitute the one for the other. Free or subsidized meals, trips, homes, discounts, insurance policies and so on, are being accepted as remuneration to the mutual benefit of the employer and employee and to the detriment of the revenue and of other employees whose taxes are correspondingly higher. To stop this trend we recommend that employers should either add the value of all non-cash benefits to the tax base of the employee or pay a high tax on the amount not allocated to employees.[21]

Accordingly, the 1972 legislation introduced a new measure to include a benefit in the employee's income that amounted to 1 percent per month of the automobile's acquisition cost or one-third of the rental price, when an employee benefited from the use of the company car.[22]

It was not until 1982 that the possibility of reducing the benefit for the reasonable standby charge was introduced. This reduction was introduced concomitantly with the increase of the standby charge to 2 percent of the acquisition cost per month or two-thirds of the rental costs.[23] The reduction was then possible provided that the personal use of the vehicle did not exceed 1,000 kilometres within a 30-day period of vehicle use (thus, a total of 12,000 kilometres in a year).[24] The Department of

20 Canada, *Report of the Royal Commission on Taxation*, vol. 3 (Ottawa: Queen's Printer, 1967), at 350.

21 Ibid., vol. 1, at 12. See also E.J. Benson, *Proposals for Tax Reform* (Ottawa: Queen's Printer, 1969), at paragraph 1.35.

22 Bill C-259, An Act To Amend the Income Tax Act and To Make Certain Provisions and Alterations in the Statute Law Related to or Consequential upon the Amendments to That Act, enacted by SC 1970-71-72, c. 63, paragraph 6(1)(e) and subsection 6(2); royal assent December 23, 1971.

23 Bill C-139, An Act To Amend the Statute Law Relating to Income Tax (No. 2), enacted by SC 1980-81-82-83, c. 140, sections 1(2) and (3), applicable to the 1982 and subsequent taxation years; royal assent March 30, 1983.

24 Ibid.

Finance explained the rationale behind the establishment of the 12,000-kilometre threshold as follows:

> We have set the 12,000 kilometre minimum standby charge because we believe that is roughly what everyone else would pay for personal use of the car. We have used 12,000 kilometres as a reasonable cut-off point. Many people will use business cars for smaller portions of personal use, but by the time you get to 12,000 kilometres you are using your car for roughly the same amount of personal use as most other citizens would be. So the Government has, perhaps arbitrarily, drawn a line and said that at 12,000 kilometres everyone is being treated equally. *It is what everybody would drive personally and it is also what other people would pay in after tax charges.*[25]

Therefore, the calculation of the reasonable standby charge aimed to accurately represent the amount that an individual would be willing to pay to have access to a vehicle for personal use. Consequently, taxpayers who had limited personal use of their employer's vehicle would experience a reduction in the benefit if their personal use of the car did not exceed 12,000 kilometres, which was what most taxpayers would travel during a year.

In 1988, the calculation for the reduction was modified to introduce an additional eligibility criterion: the distance travelled for employment purposes should constitute all or substantially all (approximately 90 percent) of the total distance covered with the vehicle.[26]

Both criteria underwent further revisions in 2003 to broaden the scope of accessing the reduction in the standby charge. The allowable distance for personal use without forfeiting the benefit of the reduction was increased to 20,004 kilometres.[27] Moreover, the condition requiring that all or substantially all of the use of the vehicle be for employment purposes was relaxed, allowing for the reduction when the distance travelled with the automobile was primarily (more than 50 percent of the total distance) for employment-related activities. These changes recognized the insufficiency of the reduction and acknowledged situations where the distance travelled between an individual's residence and workplace was significant enough to nullify the reduction. This was the justification offered by the budget:

25 Canada, House of Commons, *Debates*, March 15, 1983, at 23776, per Mr. Fisher (emphasis added).

26 Bill C-139, An Act To Amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts, enacted by SC 1988, c. 55, section 1(4); royal assent September 13, 1988. See also Canada, Department of Finance, *Explanatory Notes to Proposed Tax Legislation (Bill C-139)* (Ottawa: Department of Finance, June 1988).

27 Budget Implementation Act, SC 2003, c. 15, section 69(1), applicable to the 2003 and subsequent taxation years (section 69(2)).

> This charge can be reduced to the extent that personal driving is less than 12,000 kilometres per year, but only if all or substantially all—generally 90 per cent—of the driving is for business purposes. However, the amount of the taxable benefit may be excessive in certain circumstances. For example, although employers may often restrict the non-business use of employer-provided vehicles to commuting to and from work, the full standby charge would still apply where commuting exceeds the 12,000-kilometre annual threshold or represents more than 10 per cent of total driving.
>
> To improve the application of the standby charge, the budget proposes to allow the reduced standby charge to apply to the extent annual personal driving does not exceed 20,000 kilometres, and the automobile is used primarily—that is, more than 50 per cent—for business purposes.[28]

The requirement that all or substantially all of the distance travelled with the vehicle be for employment purposes could indeed result in depriving taxpayers of the reduction when they were obligated by their employer to commute between their residence and workplace using the company car. In most situations, this distance is considered to constitute personal use of the vehicle.[29] However, this does not elucidate the rationale behind the decision to double the threshold of personal kilometres before the benefit of the reduction is forfeited.

Discussion of the 20,004-Kilometre Threshold

The objective of the threshold was to ensure that employees whose personal use of a company car was minimal would not be unduly penalized by the taxing of the benefit.[30] Statistics Canada reported that during 2009, Canadians travelled an average of 16,249 kilometres with their vehicles,[31] which is 4,000 kilometres short of the threshold specified in subsection 6(2) of the Act. The maximum threshold of 20,004 kilometres may not align with the intended minimal use of a company car.

The decision to double the threshold in 2003 was justified on the basis of the distance travelled between the employee's residence and workplace. The Department of Finance argued that for taxpayers who were obligated to use the company car for commuting, the distance travelled for work could exceed the previously established 12,000-kilometre threshold. However, in 2016, the median distance for commuting

28 Canada, Department of Finance, 2003 Budget, Tax Measures: Supplementary Information, February 18, 2003, at 332.

29 *Barry v. Canada*, 2014 FCA 280, at paragraph 15; *Perron-Ali v. The Queen*, 2021 TCC 6, at paragraph 39; and *Brown v. The Queen*, 2012 TCC 452.

30 Alan M. Dewling, "Tax Considerations of Employee Compensation After 1981," Personal Tax Planning feature (1982) 30:5 *Canadian Tax Journal* 728-41, at 732.

31 Statistics Canada, *Canadian Vehicle Survey: Annual 2009* (Ottawa: Statistics Canada, Transport Division, 2010) (www150.statcan.gc.ca/n1/en/pub/53-223-x/53-223-x2009000-eng.pdf ?st=NiNF989S).

by car in Canada was 8.7 kilometres,[32] which amounts to approximately 4,176 kilometres per year. Among Canadians with commutes exceeding 60 minutes, the median distance to work was 40 kilometres, equivalent to 19,200 kilometres per year.[33] It is acknowledged that the 20,004-kilometre limit may be more justifiable for these specific taxpayers. However, it is worth noting that this statistic applies to only 7 percent of car commuters (in 2019),[34] and not necessarily to commuters using company cars.

If the intention of the legislature is to impose a benefit on employees equivalent to the fixed costs that they would incur when personally acquiring a car, the reduction in the benefit distorts this objective. The mathematical formula used by the legislature to minimize the impact of the benefit for taxpayers with minimal use is justified both for administrative reasons and for greater equity. However, the threshold of "minimal use" exceeds by 4,000 kilometres the average distance travelled by Canadians. This statistic alone raises questions about the arbitrary limit established in the law for "minimal use."

One author has noted the repercussions of poorly designed fiscal policies concerning company cars, in a legislative context distinct from our own—namely, that of Australia:

> This concession may influence employees to acquire a larger vehicle than they otherwise would and is provided without corresponding concession for other types of transportation, such as public transportation transit tickets or bicycles, which are less damaging to the environment.[35]

The Canadian standby charge regime was analyzed in a study for the Organisation for Economic Co-operation and Development (OECD) and was regarded as one of the most effective among the OECD countries in imposing the value of the benefit.[36] The variables used in that study did not allow for the application of the reduction to the standby charge.[37] If the standby charge is considered to be effective when the reduction is not applicable, it is even more important to ensure that the personal-kilometre threshold is really representative of minimal use of the car, which does not seem to be the case with the 20,004-kilometre limit.

The limit on personal use of an automobile plays a role in the normative analysis of income definition in the law. Implicitly, it may also serve to discourage employees

32 Statistics Canada, "Study: Long Commutes to Work by Car," *Daily*, February 25, 2019 (www150.statcan.gc.ca/n1/daily-quotidien/190225/dq190225a-eng.htm).

33 Ibid., at 1.

34 Ibid.

35 Celeste M. Black, "Fringe Benefits Tax and the Company Car: Aligning the Tax with Environmental Policy" (2008) 25:3 *Environmental and Planning Law Journal* 182-95, at 182.

36 Harding, supra note 6, at 26.

37 The study used a distance of 10,000 kilometres travelled for employment purposes and 20,000 kilometres travelled for personal purposes, making the reduction inapplicable. Harding, supra note 6, at 25.

from utilizing the company car for personal purposes.[38] If the regime is deemed to be effective without the reduction, it may be appropriate to reconsider the maximum threshold for personal distance, both to ensure the regime's efficiency and to create a positive impact in addressing climate change.

This consideration of the threshold established by the law can lead to a broader reflection: Should tax policies regarding the use of cars be harmonized to align with Canada's objectives in combatting climate change? Other jurisdictions have thought so and have introduced a calculation of the reasonable standby charge, varying the applicable rate of the benefit based on carbon dioxide (CO_2)-equivalent emissions.[39] For example, in the United Kingdom, a higher benefit is calculated for vehicles with higher pollution levels.[40] The 20,004-kilometre limit does not seem to correspond to the initial objective of minimal use. However, perhaps the consideration should go beyond just revising this simple limit and instead extend to a review of Canada's automobile tax policies in light of the real challenges of our time.

MAXIMUM THRESHOLD SET FOR THE CAPITAL COST OF A PASSENGER CAR

The CCA mechanism provided in the Act allows for the gradual deduction of an expense incurred to acquire an asset over a specific period. Taxpayers can claim this deduction for a passenger vehicle if they use it, either fully or partially, to generate employment income or business income.[41] A passenger vehicle refers to an automobile acquired after June 17, 1987 that is not a zero-emission vehicle.[42]

Depreciation is calculated on the basis of asset classes, and passenger vehicles belong to either class 10 or class 10.1, with a depreciation rate of 30 percent per year.[43] However, unlike other depreciable assets, passenger vehicles cannot be depreciated using the entire acquisition cost. The maximum capital cost considered

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38 Harding, supra note 6, at 28 (see also ibid., at 37); Deborah L. Jarvie, "Environmental Taxation in Canada," in Roberta F. Mann and Tracey M. Roberts, eds., *Tax Law and the Environment: A Multidisciplinary and Worldwide Perspective* (Idaho Falls, ID: Lexington Books, 2018), 125-50, at 140.

39 Harding, supra note 6, at 16. Harding's study refers to Belgium, Norway, and the United Kingdom.

40 Black, supra note 35, at 190-91. The David Suzuki Foundation has recommended a similar regime to the Canadian government. See David Suzuki Foundation, *Drive Green: A Company Car Tax Shift* (Ottawa: David Suzuki Foundation, 2005).

41 Paragraphs 8(1)(j) and 20(1)(c).

42 Subsection 248(1), the definitions of "automobile" and "passenger vehicle."

43 Schedule II of the regulations, class 10.1. The $36,000 limit is set by regulation; see paragraph 13(7)(g) and subsection 13(2) of the Act and regulation 7307(1)(b). This percentage does not consider the half-rate rule (regulation 1100(2)). This rule is currently suspended by the rules concerning accelerated investment incentive property (regulations 1100(2) and 1104(4)) and by the rules related to the immediate expensing of most depreciable properties

for the calculation is currently $36,000. If the vehicle's cost falls below this limit, the vehicle will be categorized as a class 10 asset, and the calculation of the CCA will be based on the actual cost of the vehicle. If the acquisition cost exceeds $36,000, the vehicle will be categorized as a class 10.1 asset, and the CCA will be based on a maximum cost of $36,000 plus applicable taxes, subject to other specific rules that apply to that class.[44]

The discussion will now focus on the $36,000 limit, which is imposed by regulation. The passenger vehicle limit is particularly interesting because it has been increased twice in the last two years, marking the first adjustments since 2001.

Justifications for the Capital Cost Limit

Prior to the 1987 reform, there was no specific capital cost limit in the law for calculating the CCA for passenger vehicles. However, the idea of imposing such a limit existed as early as 1963. The importance of such a ceiling in preventing tax avoidance and loopholes was highlighted by the minister of finance during the Budget Speech in June of that year:

> I shall propose one specific change in the Income Tax Act relative to a general tightening up of its administration in regard to business expenses. Hitherto a few taxpayers have been able to buy expensive cars and then recoup a large part of the cost out of the public revenue. I shall propose a measure to disallow in full capital cost allowances in respect of a passenger automobile acquired after tonight at a cost in excess of $5,000. I expect that this measure will produce some increased demand for less expensive cars, most of which are made in Canada and whose manufacture provides jobs for Canadian workmen.[45]

The objective of this measure was to encourage the purchase of Canadian-made cars, as explained by the finance minister:

> [T]he $5,000 ceiling was decided on so that it would include as eligible for write-offs practically any car manufactured in Canada; in fact almost all of them. The whole

(regulations 1104(3.1) through (3.4)). I will refer to these rules as "the temporary measures." Zero-emission vehicles are subject to similar tax treatment to that applicable to class 10.1 vehicles. They fall under class 54 or 55, and the capital cost is subject to a ceiling of $61,000 plus taxes (regulation 7307(1.1) and paragraph 13(7)(i) of the Act).

44 Each passenger vehicle categorized as class 10.1 must be included in a separate class of property (regulation 1101(1af)). In the year of the vehicle's disposition, taxpayers may deduct half of the CCA to which they would have been entitled had there been no disposition (regulation 1100(2.5)). No terminal loss can be claimed, and the disposition cannot result in recapture (subsections 20(16.1) and 13(2) of the Act). (Some of these rules are modified by the application of the temporary measures, supra note 43.)

45 Canada, Department of Finance, 1963 Budget, Budget Speech, June 13, 1963, at 12 (https://publications.gc.ca/collections/collection_2016/fin/F1-23-1-1963-eng.pdf).

> amount can be written off. If a car cost more than $5,000 it would probably be an imported car and nothing could be written off. The purpose was to encourage people to buy cars made here and to discontinue a practice under which the treasury has been financing approximately 50 per cent of all these high priced cars.[46]

However, the proposed measure was not implemented at that time. It was actually more restrictive than the one developed in 1987, since its effect was to completely disallow CCA for cars costing more than $5,000. The ceiling for the capital cost of passenger vehicles for the purpose of the CCA was eventually introduced during the 1987 reform. The justifications for the rule were similar to those for the 1963 proposal, but without the explicit reference to encouraging the purchase of Canadian-made cars. The changes were introduced through the addition of regulation 7307 and aimed to prevent the use of public funds to finance luxury vehicles used by taxpayers. The new regulation established a ceiling of $20,000 (including provincial taxes) as the cost of a passenger vehicle. The choice of the $20,000 limit was based on an analysis of vehicle purchase costs. The reasoning was explained by David A. Dodge, then senior assistant deputy minister in the Tax Policy & Legislation Branch of the Department of Finance, in testimony before the Senate Standing Committee on Banking, Trade and Commerce:

> Mr. Dodge: The intent here, of course, is to try to allow deductions for what is really required, not necessarily the BMWs or the Cadillacs or whatever people might think they would like to have. . . .
>
> We looked at this fairly carefully, and the amount will purchase a basic Chev. or basic Ford or a basic Olds, whatever it is called now.
>
> The chairman: With air-conditioning and items like that?
>
> Mr. Dodge: Yes, but without the super-duper motor; not the fancy top-of-the-line version but the basic version.[47]

It is evident, even without access to Department of Finance data, that the established limit is arbitrary but based on the cost of a basic car. This threshold aligns with the government's fiscal policy of ensuring that Canadian taxpayers do not finance luxury vehicles purchased by wealthier individuals. However, it is clear that there is no provision for indexing this amount. If the cost of a basic car in 1987 was $20,000, it would not be the same several years later. Therefore, the intention was to

46 Canada, House of Common, *Debates*, November 1, 1963, at 4286, per Minister of Finance Walter Gordon.

47 Canada, Senate, Standing Committee on Banking, Trade and Commerce, *Evidence*, 33d Parl., 2d sess., vol. 2, meeting no. 32, September 16, 1987, at 71-72. See also Canada, House of Commons, *Report on the White Paper on Tax Reform (Stage 1)*, Eleventh Report of the Standing Committee on Finance and Economic Affairs (Ottawa: Queen's Printer, 1987), at 58, in which the committee mentions evidence presented by the Canadian Automotive Leasing Association of an average replacement cost of $19,657 for a suitably equipped mid-size business car.

regularly review the limit,[48] and a two-year interval was proposed by the minister of finance.[49]

Two years later, the limit was indeed reviewed and increased to $24,000 as of September 1989.[50] This amount excluded sales taxes for cars acquired after 1990. The measure was regularly reviewed in the 1990s, and in 2014 the Department of Finance stated that it had conducted an annual analysis of the amount of the limit.[51] The following table summarizes the capital cost limit in effect for the taxation years 1989-2021:

Applicable period	*Threshold*
September 1989-1996	$24,000
1997	$25,000
1998-1999	$26,000
2000	$27,000
2001-2021	$30,000

These increases were justified as reflecting the rising cost of acquiring an automobile "that is generally acceptable for business purpose"[52] for the year. It is worth noting that at the time of the 2001 increase, the Department of Finance added that it would also simplify the rules by reducing the number of taxpayers affected by the provisions while maintaining the restrictions on deductions related to luxury vehicles.[53]

In recent years, the capital cost limit for passenger vehicles has been revised to $34,000 for vehicles acquired after 2021, and finally to $36,000 for vehicles acquired after 2022, putting an end to the lengthy period of leaving the limit unchanged since

48 See the testimony of David Dodge in *Evidence*, supra note 47, at 71. See also *Report on the White Paper on Tax Reform*, supra note 47, at 60, where the committee recommended "that there be a regular review of the limit."

49 Canada, Department of Finance, *Supplementary Information Relating to Tax Reform Measures* (Ottawa: Department of Finance, December 16, 1987), at 32; Canada, Department of Finance, *The White Paper: Tax Reform 1987* (Ottawa: Department of Finance, June 18, 1987), at 35; and Canada, Department of Finance, *News Release* 89-83, August 14, 1989.

50 *News Release* 89-83, supra note 49.

51 Canada, Department of Finance, "Government Announces 2015 Automobile Deduction Limits and Expense Benefit Rates for Business," *News Release*, December 23, 2014.

52 SOR/99-239, *Canada Gazette*, part II, vol. 133, no. 13, June 26, 1999, at 1518 (Regulatory Impact Statement Analysis); Canada, Department of Finance, "Regulations Amending the Income Tax Regulations," *News Release* 99-108, December 13, 1999; Canada, Department of Finance, *News Release* 97-112, December 4, 1997; Canada, Department of Finance, *News Release* 96-103, December 23, 1996; Canada, Department of Finance, *News Release* 95-104, December 12, 1995.

53 Canada, Department of Finance, *News Release* 2000-096, December 20, 2000.

2001. The government's justification for the decision to raise the limit in 2022 was that this adjustment "reflect[ed] recent increases in the Consumer Price Index."[54]

Is the Capital Cost Ceiling Appropriate?

The calculation of CCA is a technical provision used in determining a taxpayer's annual income. The purpose of setting a limit on the capital cost of a car is to restrict the deduction of expenses related to luxury vehicles. In imposing this restriction, the regulation aims to achieve a delicate balance between acknowledging valid business expenses and averting excessive deductions that could lead to inequities in the tax system. This objective continues to be relevant and necessary. Without such a limit, there would be a propensity for certain taxpayers to utilize public funds to cover personal consumption expenses, thereby providing additional advantages to individuals with higher incomes, who can afford luxury goods. This measure helps to ensure that tax benefits are distributed equitably and discourages any potential abuse or exploitation of the tax system.

After its introduction, the capital cost ceiling for automobiles was subject to regular reviews and increases throughout the 1990s to accommodate the escalating prices of cars. However, despite the presence of annual inflation after 2001, it took a considerable period of 21 years, from 2001 to 2022, for the limit to be readjusted. When the rule was initially implemented in 1987, there was an agreement that this amount would undergo regular review. Surprisingly, the Department of Finance has not provided any explanation for the absence of increases in the capital cost ceiling during these years. Every December, the Department of Finance issues a press release concerning automobile deduction limits and expense benefit rates. However, the press releases consulted for this period simply stated that the ceiling would be maintained for the following year, without any indication of adjustments or any explanation for the lack thereof.[55]

This history raises valid questions about the adequacy and fairness of the current limit. Given the passage of time and the impact of inflation on car prices, it is pertinent to assess whether the increases in 2022 and beyond are sufficient to keep the limit aligned with the standards set in 1987. It is therefore important to question the adequacy of the current limit. Is it possible that the cost of a basic car did not rise during the first 20 years of the new millennium because of improvements in manufacturing technology? It can be worth noting that, even if this statistic is not directly relevant because it does not apply only to basic cars, the average price of cars sold in

54 Canada, Department of Finance, "Government Announces the 2022 Automobile Deduction Limits and Expense Benefit Rates for Businesses," *News Release*, December 23, 2021.

55 Canada, Department of Finance, "Government Announces the 2017 Automobile Deduction Limits and Expense Benefit Rates for Business," *News Release*, December 30, 2016.

December 2001 was $30,209, whereas by December 2022 it had risen to $55,636.[56] Considering this evidence alongside the absence of adjustments over several years, it is reasonable to wonder if the increases in 2022 and 2023 are adequate to keep the limit within the standards of 1987. If the limit has proportionally decreased over time, questions may be raised about the underlying reasons. Is this a deliberate reduction because of the government's environmental objectives? On the basis of the information available, I do not believe that to be the case. But the reduction of the ceiling could effectively discourage the purchase of cars.

CONCLUSION

This article serves as an invitation to re-evaluate the entire framework of automobile taxation rules. The examination of the two limits discussed in this article suggests that the current rules may have drifted away a little from their original fiscal policy intent. The 20,004-kilometre limit appears to be inadequate in addressing concerns about minimal use, while the capital cost ceiling may not have been sufficiently adjusted for inflation.

At the time these measures were introduced, environmental factors and their associated social costs were likely not given significant consideration. As we delve into the realm of automobile taxation, it is perhaps an opportune moment to question whether these rules, which are part of the normative framework of the law, could also be used also to achieve environmental objectives, following the examples set by the United Kingdom and other jurisdictions. The standby charge for automobiles could be more closely aligned with Canada's environmental objectives by basing the charge on CO_2-equivalent emissions and by lowering the maximum personal distance used to calculate the reduction. But these proposals would require detailed analysis by public policy experts.

56 Statistics Canada table 20-10-0001-01 (formerly CANSIM table 079-0003), "New Motor Vehicle Sales." To arrive at the figure cited in the text, I divided the total sales (in dollars) by the number of cars sold.