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MONEY BOX

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LEWIS: Hello. Happy New Year! And in the first Money Box of the new decade, a High Court judge closes a loophole that could have allowed people to get their credit card debts written off. VAT goes up for the first time since 1991. How can some shops say they won't be implementing the rise just yet? Bob Howard's been looking at criminals targeting our plastic cards when we pay.

HOWARD: When you buy with a card in a shop, could fraudsters be stealing your details?

MURDOCH: There's really nothing the customer can do because a compromised terminal will look exactly the same as a normal terminal.

LEWIS: The Consumer Minister explains why he wants to ban high interest lending secured on a car or motorbike. And as a new year begins, what are the prospects to saving and investing?

But, first, the banks have won another victory in the courts - this time against credit card customers who've been trying to get their debts written off because the bank didn't have the original agreement they signed. Judge David Waxman, sitting in the High Court in Manchester, has ruled that banks can enforce debts in some circumstances even if the original credit agreement has been lost or destroyed. He also ruled that missing a twelve day deadline to provide details of the agreement didn't stop them enforcing the debt. The rulings affect thousands of claims from borrowers who've been trying to escape debts they admit they have incurred. Well with me is Guy Anker, News Editor of MoneySavingExpert.com. Guy, how many people with credit card debts have successfully exploited this loophole before the ruling to avoid paying them back?

ANKER: Well I'd love to give you a figure, but unfortunately I mean we've had claims companies come to us and we've asked them this question and unfortunately many of them are very candid and don't give a figure. Personally, I've seen maybe a dozen, two dozen.

LEWIS: So very, very few.

ANKER: Indeed.

LEWIS: And hard anyway, and now of course harder after this ruling. And the bank… Just explain what the judge actually said. They don't have to have the original agreement you signed.

ANKER: That's right. A lot of claims companies try to encourage consumers to claim on the basis that the bank has to provide the *exact* original agreement. The judges now say they can effectively draw up a piece of paper just with the original information, but it could be a completely new sheet of paper.

LEWIS: Right, so they don't have to have kept a copy. And is this they don't have the copies because they've, what, destroyed them, they've all gone computerised, they haven't scanned them in? Why wouldn't they have the copies?

ANKER: Well it's probably a mixture of reasons. I think some are just simply careless. Some can't find them. The judge even alluded to the fact that in some cases they may have been destroyed by fire, little instances here or there.

LEWIS: Hmn. But customers might say - I mean I think I might say if I had an agreement, even if I took it out 10 years ago - well we signed an agreement together. You should jolly well have a copy of it.

ANKER: Indeed, that's a good point. But I think nine times out of ten they should have an agreement, but there may be occasions when they don't, and I think that's why the judge has gone down this route.

LEWIS: And he also made this other point that I mentioned; that under the law it says you have to provide a true copy within twelve working days. And he was saying … Not only did he define what a true copy was - one of these reconstituted copies now - but he also said the twelve days, although you had to provide it in that time; if you didn't, it didn't abrogate the whole agreement.

ANKER: Indeed. The lender has to provide a copy. Now if it's 24 days, if it's 240 days, when the lender provides that agreement the debt then becomes enforceable again.

LEWIS: Right, so the bank can go away, track down your original name it's got, your address and the kind of terms and conditions it had, and say that's the agreement. Even if it takes 6 months, it can then still say okay, now you've got to pay up?

ANKER: That's right. And even while it's technically not enforceable during that time, the bank can still tell credit agencies, so it can harm your credit rating if you don't pay in that time.

LEWIS: Right. So it really was a victory for the banks?

ANKER: Yes.

LEWIS: Now a lot of these claims have been taken by claims management companies. You mentioned that earlier. If so few have actually been successful, how do they make their money?

ANKER: Well quite a few of them charge an upfront fee - up to £500 sometimes.

LEWIS: So win or lose, you pay that?

ANKER: Exactly. I mean there will be caveats. Some will provide some form of compensation from that money if you lose, but by and large you have to pay up to £500 to begin with.

LEWIS: So obviously the more customers they get, the more they make. And, briefly, your company, MoneySavingExpert, is known for encouraging people to get back money where they can, but you seem unusually a bit cool on this attempt.

ANKER: Yeah, this is slightly different. This is not like bank overdraft charges. Where you've borrowed money on a credit card to buy a TV, to buy your groceries, whatever, in most cases you should pay up.

LEWIS: And particularly if you know you have to pay it and you can afford it. Guy Anker of MoneySavingExpert.com, thanks very much.

Now for the first time since 1991, the main rate of VAT has gone up. On Friday, the cut which was made in December 2008 was reversed, raising VAT from 15% to 17.5. In theory everything you buy that's VAT rated will now be more expensive. The total price rise confusingly will be just under 2.2%. But some major retailers are planning to delay the increase. John Lewis says it won't implement it until 1st February. Asda says it won't put up the VAT on more than half of its VAT-able products for the time being. Other retailers though may be using the opportunity to round up prices. But will the rise really discourage spending? We asked shoppers in a West London shopping centre just before VAT rose.

FEMALE SHOPPER 1: Well obviously it makes a big difference on prices and I think people will start reeling their … you know be more cautious once the VAT does go up. That's why we're here now, to see what bargains we can pick up before the prices go back up.

MALE SHOPPER 1: I'm not buying anything massive and I don't think 2.5% on something that costs about 10 quid or 20 quid makes a big difference at the moment.

FEMALE SHOPPER 2: Well I'm an events organiser, so it does affect me because if you're selling tickets at 15% VAT, all of a sudden they're going to go up.

MALE SHOPPER 2: I just don't think I've seen any effect. There's no real discounts and there's never been a discount before that.

FEMALE SHOPPER 3: If you want to purchase a good, you've got to pay the going rate. So either way, no it doesn't worry me.

LEWIS: Well live now to John Whiting, Tax Policy Director of the Chartered Institute of Taxation. John, just tell us first how some stores can claim they're *not* implementing this rise?

WHITING: Well like it or not, they'll have to pay over the appropriate VAT to HM Customs & Excise because in a sense they charge you whatever it is - £10, £1,000, whatever it is - and before 1st January, they were of course paying over 15 115ths of VAT to Customs & Excise. They're now paying over 17½ 117½s.

LEWIS: Right, I'll leave you to do the arithmetic.

WHITING: Thanks.

LEWIS: And what about retailers that take the opportunity to put up prices by more than the in fact 2.2% roughly it should go up?

WHITING: Well I think underneath this, it's really coming through that this whole VAT cut of 13 months ago and rise now has been really quite an exercise for retailers, and I've a lot of sympathy with a lot of retailers who've had to re-price, re-re-price, think about it, and generally change how they do their pricing. A lot of administration for them. So what a number have done is say okay, we've got 1,000 items. We'll put up VAT on 5 or 6 to compensate for the others - not least because a lot of organisations price to price points, you know £25, £10, whatever. Adjusting VAT on that - very, very difficult.

LEWIS: Yes, so you might go from sort of £1.99 to £2.03½, which isn't terribly helpful.

WHITING: Which you're just not going to do. Although I must admit, I did like the sign in my local butcher's this morning, which said 'No VAT rise on our products' because of course there isn't any on fresh meat.

LEWIS: No, I was going to ask you about that because not all products have VAT, do they …

WHITING: Indeed!

LEWIS: … so they don't have to go up at all? What are they?

WHITING: Well a lot of fresh food and veg. A lot of food. Not all food because a lot of processed stuff - famously chocolate biscuits and the like - have VAT on it; but also books, newspapers, a lot of transport, things like that. Famously children's clothing, but of course not *all* clothing. And I think that's an area where we will see - and I saw it yesterday when I was out shopping - advertising no price rises yet.

LEWIS: Yes. Of course children's clothing is done by size rather than by whether they're bought by children.

WHITING: Indeed, indeed.

LEWIS: And finally on another topic, John. Monday at 5 o'clock is a very important deadline for any listeners who've got money in a bank account which is outside the UK.

WHITING: Well yes, but let's stress only if they haven't declared the interest and possibly even the source money on that to HM Customs & Excise over the years because Revenue & Customs have offered this sort of amnesty until Monday 4^{th} for you to come forward, put your hands up and say, "Actually I'm sorry, I haven't declared the interest. I should have done. Here you are. I'm putting my hand up now. I want to settle up."

LEWIS: And you don't have to give them the details.

WHITING: No.

LEWIS: You just have to sort of confess and then the details can be sorted out at leisure.

WHITING: Indeed, by mid… Well not quite leisure. Middle of March is your deadline for getting it sorted. And then, just like VAT, penalties go up after that.

LEWIS: Right. Okay, John Whiting, thanks. And tax and self-assessment at the end of a difficult year is the topic for Money Box Live on Wednesday with Vincent Duggleby.

Every time we use our credit or debit card in a shop or restaurant, we enter our PIN into a small, often hand-held device. But how can we be sure these little boxes keep our PIN secret? Well Money Box has learned that criminals are using many techniques to target these devices. The banking industry insists that Chip and PIN cards have helped reduce fraud, but it's so worried about the latest attacks it's issued guidelines to retailers about keeping their PIN entry devices secure. Bob Howard's been investigating.

HOWARD: Paul, both the British Retail Consortium and the bank cards industry have told me they've heard of instances of criminals dressing up as engineers and entering shops, asking to examine Chip and PIN terminals. They then take one away to be repaired, but instead they alter it so it can record the PIN and card details of all future customers who use it. The fraudsters can't create a new Chip and PIN card, but they can use the details to create their own magnetic stripe bank cards to use in countries abroad which don't yet have Chip and PIN. Steven Murdoch is a Chip and PIN expert at Cambridge Computer Lab. I asked him to show me how these PIN entry devices could be altered to steal a customer's card details.

MURDOCH: It certainly is possible to take one of these Chip and PIN terminals and then add some extra electronics or extra software, which will give the person who's corrupted it a copy of the card's details, potentially the mag stripe too, and also the PIN, and then they can then use these for fraudulent purposes. So there's been spates of this in petrol stations and also in many other places. Criminal gangs are very interested in doing this and have been very successful in doing so.

HOWARD: You've actually rigged up a PIN entry device such as you would find in a shop and you can actually read my card details. Is that right?

MURDOCH: What me and my colleague at the Computer Lab, Saar Drimer, have done is bought one of these terminals off eBay and then tampered with it so it's under our full control.

HOWARD: That's very worrying. Although I mean obviously you've got a whole load of wires coming out of yours going to a laptop, which might arouse suspicion in the average shop.

MURDOCH: This is a very simple demonstration, but another thing that criminals have done is taken a Chip and PIN terminal and they've just added a little bit of extra electronics. It records these details and saves it onto some memory card. Or in more sophisticated cases, they've actually built a mobile phone into the Chip and PIN terminal and then the details are then wirelessly sent over and then used for fraudulent purposes.

HOWARD: Let's give it a go, shall we? Right, so this is my bank card. Okay, so whatever PIN I put in here, you can tell me what it is. So if I pop it in like that. Okay, £5 payment. So it's asking me for a PIN number. Okay, I'm going to put it in. *(inputs PIN number)*

MURDOCH: And press enter. So we can now see you on the laptop screen. The card name is Howard/R C Mr. And account number and so on, the expiry date. And then if we scroll down a bit, then we get the PIN that you entered.

HOWARD: And the PIN was …?

MURDOCH: 4954.

HOWARD: Which is exactly correct.

MURDOCH: Yeah. So crooks have done attempts like this and they've been very successful. They've got thousands of sets of card details, which they've then used for various fraudulent purposes. The criminals have been so successful at putting these bits of electronics into terminals, the only way even the staff can tell is to weigh it. And if they put it on the scales, they'll see there'll be a little bit of extra weight because of the extra electronics the criminals have added. Several people have been sent to jail over this.

HOWARD: And they're quite hard to guard against.

MURDOCH: There's really nothing the customer can do because a compromised terminal will look exactly the same as a normal terminal. Often someone working for the shop is working with the criminals, so there is really no-one to protect the customer.

HOWARD: Steven Murdoch from Cambridge Computer Lab. Now retailers in the banking industry have told me that steps have been taken to improve security to stop this sort of thing happening. They include making sure any engineers who arrive to fix Chip and PIN terminals show ID and that any work on them has to be approved by senior managers. Interestingly, the British Retail Consortium told me that these measures had now sorted this problem out, but the bank cards industry doesn't believe that to be the case. It's issued a string of guidelines to retailers, including recommending security checks for anybody they employ to prevent staff colluding in Chip and PIN fraud. But a spokesman told me this week tampering was still an ongoing problem.

LEWIS: Thanks, Bob. And that wasn't Bob's real PIN, which is … Oh no, I promised not to tell you that.

The government has announced it wants to ban a form of lending secured against a car or motorbike. When the loan is taken out, the borrower hands over the logbook of their car or motorbike and gives the lender the right to seize the vehicle and sell it without going to court if they default on the loan. The cost of these loans is very high. One firm advertising on the Internet says that to borrow £1,500 over 18 months will cost £2,680 in interest alone, an APR of 437%. Robert Shaw is one customer of a logbook lender who went to court last month to try to get such rates of interest deemed unlawful.

SHAW: I did know what the interest rate was. I went into it thinking that I'd pay it off very quickly and that whatever amount of interest I'd pay would be quite a small amount because I'd pay it off soon. It was only because it took me about 3 months to pay it off instead of the 1 month I'd hoped that the amount of interest I started becoming liable for became much greater than I'd expected. And at that point, I then looked into it and thought well you know is this right? I borrowed £3,000 from them and the potential term of the loan was for 3 years, and that would have resulted in me paying £10,500 in interest to borrow £3,000.

LEWIS: Well Robert Shaw lost his case in the High Court, but is planning an appeal. I asked the Consumer Minister Kevin Brennan why the government was keen to ban loans secured on vehicles.

BRENNAN: Well they're a form of loan really that comes from a pretty archaic piece of legislation. The Bills of Sales Act was brought in in 1878. That's even before cars were invented. When you take out a so-called logbook loan, a bill of sale, your goods, mainly a motor vehicle, become the property of the people lending you the money and they can seize it without a court order or without any proper real consumer protection. So I think in the 21st century, I'm pretty clear that that doesn't really meet the standards we want to have today for consumers.

LEWIS: In your press release, you say that one concern though is the excessively high cost of the loans, and the one I looked at was 437% APR. Is that what you're objecting to as well?

BRENNAN: Well that's part of it. And obviously there is a review of the high cost of credit going on at the moment that the Office of Fair Trading are carrying out, and looking at this form of lending will be part of that as well. And I am concerned about whether or not there's sufficient competition in this area and whether or not people are being ripped off with some of these very, very high rates of interest that are charged both on logbook loans and other forms of higher risk lending. But I think also the special case for logbook loans if you like for taking action on them is that they really don't give that level of consumer protection that ought to be available even if you take out a loan at a relatively high rate of interest.

LEWIS: You ask whether people are being ripped off with high rates of interest. Are you saying 437% APR is ripping people off?

BRENNAN: Well it's certainly a high rate of interest and I think the reason why …

LEWIS: *(over)* Is it too high?

BRENNAN: The reason why the Office of Fair Trading are conducting their review into the high cost of credit is in fact to see whether or not the rates of interest that are being charged by doorstep lenders, by payday loans and by logbook lenders truly reflect their costs or whether or not there's an element of cost included in there which is to do with there being a lack of competition in the market. So, yes, I am concerned about the high cost of interest, but what we haven't done so far is introduced an interest rate cap. It's something we're looking at and we're going to look very carefully at what the Office of Fair Trading say about this, but the evidence in the past from consumer groups was that they didn't want us to do that because of some of the consequences of possibly driving people into the illegal loan shark market.

LEWIS: You announced you would do something about logbook loans in a paper in July. Five months later, you announced this consultation. The consultation process doesn't end till March. Realistically you're not going to do anything about them this side of an election, are you?

BRENNAN: I accept that, but that doesn't mean it's wrong for us to say that we intend to do so once we've had the consultation. Now there can be unintended consequences and there's a set question that's put to you by every interviewer in these circumstances, which is "why haven't you done it before and why aren't you doing it more quickly?" And then if you do something quickly and it goes wrong, it's "why did you legislate in haste so that you can repent at your leisure?" The right thing to do is to consult properly on it (because there could be unintended consequences) to make sure we're getting it right, but I'm saying quite clearly that logbook loans do not meet the standards of 21st century consumer protection and therefore we need to do something about it and we've made clear our intention to do that.

LEWIS: Consumer Minister Kevin Brennan. And you can have your say about high interest loans secured on vehicles on our website: bbc.co.uk/moneybox.

And now saving and investing. It's been a funny old year and, I have to say, a funny old decade. It began with interest rates rising to 6% and ended with them falling to a half percent - the lowest in more than 300 years. Share prices in London began the decade at a record high, plummeted, rallied, plunged again, and this year have risen by more than 20% - though they're still 20% below that millennium peak. As shares have risen, interest rates have plunged. Savings rates are typically 1% or less and inflation is lurking in the wings. So where can you get a decent return on your money for 2010 and beyond? Well let's look at savings first. Live now to Norwich to talk to Andrew Hagger of Moneynet.co.uk. Andrew, there are good rates out there, aren't there, but you have to look hard for them. What are they?

HAGGER: Yes, there are good rates, but you find that you have to tie your money up to get these. Normally the fixed rate bond market. You can get 3.75% for 1 year, but if you tie it up for longer term and go as far as 5 years, you can get as much as 5.25%.

LEWIS: Yeah, but 5 years from now, we've no idea what's going to be happening, have we?

HAGGER: Exactly, that's the thing. You know there's a lot of people out there maybe happy to tie their money up for 12 months, but you know we're sitting with base rate at a record low. At some stage that's going to increase. The thing is we're not quite sure exactly when it's going to happen and also how quickly that's going to happen.

LEWIS: No, but certainly some suggestion that some of these fixed rates may improve in the next few months.

HAGGER: Yeah, I think that's something that we may well see, especially if we start to get a little bit more competition in the market as well.

LEWIS: Yes, with the plans for new banks to be set up …

HAGGER: That's right.

LEWIS: … taking over some branches that Lloyds have to get rid of. And what about ISAs, tax free savings? What are the best deals you can get on those?

HAGGER: If you're looking for a fixed rate ISA, you can get 3.33% with the Bank of Cyprus for 1 year. Again, if you want a better deal, you've got to fix it for a longer period, but I mean if you went for 2 years, for example, you can get 3.5 with the likes of Abbey, Saga, Nationwide.

LEWIS: Yeah and of course the advantage that all that money is tax free whatever rate of tax you pay. Stay with us, Andrew, but let's talk investments now. With me is Justin Modray of Candidmoney.com. Justin, the stock markets certainly have been all over the place over the last year. What's the way to invest successfully in a very volatile time?

MODRAY: Well I think you know it's going to be very uncertain going forward, so you can look at maybe feeding money in on a monthly basis - so rather than putting in a lump sum now, keeping your fingers crossed and *hoping* the market goes up over the next year, you could save on a monthly basis. That means if markets do fall, you'll be buying more and more shares or units at a lower price.

LEWIS: Yes, I saw some figures suggesting that really was the way … If you'd done that over the last year or two, you'd have made more money than if you'd put it in a certain fixed time.

MODRAY: That's right. I mean it doesn't work always obviously. If markets soar ahead, then you'll lose out. But certainly in uncertain times, that's one way of reducing risk.

LEWIS: One of the things that people also want to reduce is cost, isn't it? We've looked at this several times on Money Box. You have an investment fund, but out of the bottom is dripping this 1 or 1.5% into the fund manager's pocket every year.

MODRAY: Sure.

LEWIS: How can you avoid that?

MODRAY: Well one way of avoiding upfront costs is to go to a discount broker. They give you back no initial commission. That can cut the initial cost to near zero. Ongoing costs, some discount brokers give some of that back, but by far the lowest cost route to go is to look at a tracker fund perhaps. Either a unit trust where you can get some really good deals below half a percent annual charges. Or to look at iShares. Sorry, Exchange Traded Funds such as iShares that again charge far lower costs than an actively managed fund.

LEWIS: Yes because for some reason that I've never understood, they don't pay stamp duty when they're buying and selling. So that's a saving.

MODRAY: They don't. It's a bit of a quirk, yeah.

LEWIS: And the charge they make is as low as you can get really, isn't it?

MODRAY: It is. I mean you can generally pay less than .3% as an annual charge and that's obviously a massive saving over time if obviously the investment performs.

LEWIS: Yes and that's the thing we have to look at and of course no-one can predict that. Because we're always told shares are for the long-term, aren't we, but in the last 12 years shares are back where they were 12 years ago. In fact it's over the last year, you could have made money by investing in March and selling now.

MODRAY: That's right. I mean the last year's been almost a bit of a shock. Because the banking system didn't collapse, everyone breathed a massive sigh of relief and hence everything shot back up again. But we're still, as you said, far short of where we were several years ago.

LEWIS: And Andrew Hagger, looking forward to 2010, do you expect to see base rates going up?

HAGGER: I think if we do, it's going to be perhaps the second half of the year. A lot of people are saying perhaps not till 2011. But never say never after the year we've had in 2009.

LEWIS: And savings rates, you think might ease up with extra competition from other players in the field?

HAGGER: Yeah, I think that will help. And also it depends on the level of mortgage demand that's out there as well, you know.

LEWIS: Yes because if they've got to lend us more money, they've got to borrow more from other people to lend it to us.

HAGGER: Exactly.

LEWIS: And Justin Modray, the FTSE 100 up 22% over the whole of 2009. Where will it end 2010?

MODRAY: This is where I'm guaranteed to get it wrong, but I see the year being fairly flat, so probably at best about 5,500 points.

LEWIS: 5,500. So a little bit up, tiny bit up. I won't ask you about 29p. *(Modray laughs)* Justin Modray of Candid Money and Andrew Hagger of Moneynet, thanks. And that's it for the first Money Box of the new decade. Find out more from the BBC Action Line - 0800 044 044 - and of course our website: bbc.co.uk/moneybox. Still time to try our Christmas quiz as well as watch videos, sign up for the newsletter, download podcasts, listen again, and of course have your say on loans secured on your vehicle. Should they be banned? Vincent Duggleby's here on Wednesday with Money Box Live, this week taking your questions on tax and self-assessment. Money

Box is back next weekend. Today the reporter Bob Howard, producer Lesley McAlpine. I'm Paul Lewis.