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## **MONEY BOX**

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**LEWIS:** Hello. In today's programme, the Revenue says it will collect tax that's 3 years old from 450,000 people whose tax codes it got wrong. Can it do that? Prenuptial agreements are back in the news as the Law Commission publishes a consultation for England and Wales, and we look at divorce insurance. Ben Carter's here. He's been looking at currency rates.

**CARTER:** Yes, Paul, we'll be naming the airlines and credit card providers who are charging more by using poor exchange rates.

**LEWIS:** And no more forced retirement, but a longer wait for your state pension and you will have to join a company pension scheme.

But first, Her Majesty's Revenue & Customs is planning to recover £160 million of tax, which is 3 years old, from nearly half a million people. The Revenue failed to collect this tax in 2007-8 due to problems with tax codes that we reported on in September. The 3 year old tax demands are in addition to the 1.4 million people who've been asked to repay money in the last few weeks for more recent tax. At the same time, the Revenue announced some concessions. About a quarter of a million people whose state pension has been under-taxed will not now be asked to pay the money, and any tax which HMRC failed to collect from April 2006 or earlier will be written off. But what should you do if you get one of these demands for 3 years old tax? Live now to Oxford to talk to Jane Moore who's Technical Manager at the Tax

Faculty of the Institute of Chartered Accountants in England and Wales. Jane, how will these demands (as I call them anyway) arrive?

**MOORE:** What will happen is that the people will be sent a form P800, which is a tax calculation, and the Revenue says these should all arrive by the end of March this year.

**LEWIS:** And that will set out money you owe from 07-08, which is a long time ago, isn't it? Can you challenge them?

**MOORE:** You can indeed. There are really three things you can do. First of all, fundamentally, check the calculation. If you think it's wrong, then query it. Secondly, it's possible that your employer might have got things wrong by using the wrong tax code, for example - in which case you can ask the employer to pay the tax for you or ask the Revenue to sort that out. And thirdly, and most importantly, there is a concession called Extra Statutory Concession A19. This unusual piece of tax jargon gets such high media coverage.

**LEWIS:** *(laughs)* Yes, we've covered it before.

**MOORE:** But what that means is if the Revenue had the information to get your tax code right and they delayed using it for at least a year after the year when they got it, then they will agree to write off the tax.

**LEWIS:** Right, and I know a number of people have tried this. But just before we explain that in a little more detail, let's just hear from Geoff in Merseyside. He contacted Tax Help for Older People, a charity, when he received a demand for £1800. Tax Help said he might be able to get it cancelled under that Extra Statutory Concession, but he got two different answers.

**GEOFF:** I had a telephone conversation from East Kilbride, the tax officer there, and he informed me that "you're entitled to the concessions and we won't be pushing you

for the tax demands.” And I said, “Could you please put that in writing?”, which he did in the next few days. Within three days I received another letter, which was the complete opposite of what I’d received before, saying that they still wanted me to pay the tax. And obviously I was in a complete dilemma then.

**LEWIS:** So, Jane, two different responses from the Revenue. Are the decisions fair and consistent in your experience?

**MOORE:** I think the Revenue have been trying their best to apply this concession consistently, but we certainly have heard of reports (like the one from Geoff) where it hasn’t gone quite as expected.

**LEWIS:** And in Geoff’s case, because he’s had a yes and a no, can he assume that the yes is the one he can accept and he will not have to pay his money?

**MOORE:** The Revenue have told us that, yes, you can assume that the good answer is the right answer.

**LEWIS:** *(laughs)* Right. And we did get a response from HMRC about Geoff’s case. It can’t discuss his case, but they say they’re sorry for the contradictory replies. ‘We’ve got guidance in place which governs how applications are evaluated to maximise consistency and fairness. We do everything we can to reduce subjective judgements, but a degree of subjectivity is inevitable.’ So, Jane, subjectivity’s inevitable. This presumably means you have to set your arguments out carefully. What do you have to say?

**MOORE:** Well first of all, I’ll just mention another important point of ESC A19, which is you must have reasonably believed that your tax affairs were in order before the Revenue will give you the write off.

**LEWIS:** And it’s not just believing it. Your belief has to be reasonable.

**MOORE:** Yes.

**LEWIS:** In other words, you have to say well I got all this stuff from the Revenue and of course I thought they were right.

**MOORE:** Quite so. So if you had a big company car, it wasn't in your code and you just kept quiet - then you weren't reasonably believing your affairs were up to date. But if you were confused by your tax code, which can floor even otherwise normally intelligent people to understand, you could reasonably have believed it was right if you thought you'd done everything expected of you.

**LEWIS:** Yes, so if you set that out, tell HMRC everything, HMRC obviously haven't used it in a timely manner and you had a reasonable belief it was right - then really you should get it written off.

**MOORE:** I think you should. A slight complication for 07-08 is that you may not have your records anymore because you're only required to keep tax records in many people's cases for 22 months after the end of the tax year. So we hope that the Revenue will give people the benefit of the doubt if they no longer have the paperwork.

**LEWIS:** Well we'll have to wait and see. Jane Moore, Institute of Chartered Accountants, thanks very much for that.

Prenuptial agreements, deals between spouses about how their assets should be divided if they get divorced, are in the news again. The Law Commission, which advises the government on changes to the law in England and Wales, has produced a consultation paper on what it calls Marital Property Agreements. It doesn't recommend for or against, though the move in their favour both in society and the courts seems strong after a recent Supreme Court decision. The government also announced recently it would end almost all legal aid for divorce disputes in the courts, and that led Justice Minister Jonathan Djanogly to call for couples to take out insurance against the costs of divorce. I asked him this week how that would work

and he told me the government hoped couples would come to an agreement; and if they didn't do that, they would go to mediation.

**DJANOGLY:** If they do go to mediation and they don't sort out their problems, then they may end up in court and the problem comes up if one party to the marriage is wealthier than the other one. The government's response to this, or our proposal in our green paper, is that the poorer spouse should be able to receive an interim lump sum from the judge. At the moment that's not possible, so they would then get what we call Equality of Arms in the court. However the marketplace has also been looking at this and they're looking at alternatives like, for instance, insurance, and also we're hearing about banks talking about lending to the poorer spouse in anticipation of the settlement.

**LEWIS:** Yes, assuming of course they get one. But you mentioned insurance. How would that work because it's a strange thing to start buying as you come back from your honeymoon really, isn't it?

**DJANOGLY:** It is indeed, and I have to say that it would be the market that determines what form it would take. But other countries have much more developed forms of what we call Before the Event Insurance. In Germany and Scandinavia, the market is much more developed and people will more commonly take out insurance for a whole variety of things, and this may be wrapped up in a package.

**LEWIS:** So it would include legal costs, and that would include the cost should you get divorced?

**DJANOGLY:** Exactly.

**LEWIS:** Justice Minister Jonathan Djanogly. And at least one legal insurance provider is considering divorce insurance here. Tony Buss is Managing Director of ARAG UK and he's been looking at how divorce insurance works in other countries.

**BUSS:** There's some interesting sort of comparisons. In Germany you'll pay 100 euros and you'll typically get 30,000 euros worth of cover, and that would be split between the two partners in the marriage. There would be a waiting period, and normally it's 36 months. In some countries, it may be only 2 years, but typically it's 3 years before the policy would trigger. They would have to pay the first 500 pounds worth of legal costs between them, but after that it would be fully covered up to the 30,000 euro limit.

**LEWIS:** Why is it taken off in continental Europe and not in the UK?

**BUSS:** Well I think legal protection in general is far more accepted and established in many countries in Europe, particularly Germany, and they're well ahead of us - they're a sort of generation or two ahead of us - and I think the UK will finally catch up, but not quickly. I think it takes time for this to happen. Up until now, I think the main distributors of insurance have shied away from providing it because it's sort of been socially unacceptable, and that might change.

**LEWIS:** Can you give us any idea what it might cost in the UK for someone?

**BUSS:** Well that remains to be seen. I haven't done the sums myself on the frequency of divorces in the UK. We know that it would be higher in the South East of England, for instance, than say in Scotland.

**LEWIS:** It would be a postcode lottery on the premium.

**BUSS:** Well it wouldn't be a lottery, but you'd have to be very careful. But we know that people in the South East would probably be more likely to buy it than, say, people in Scotland, and therefore you know you have to sort of underwrite it appropriately and you also know that once you're divorced there's more likely to be a repeat divorce if you have another marriage. So you would look at the track record of the individuals concerned.

**LEWIS:** And as a major provider of insurance against other legal costs, are you actively now going to look at divorce insurance in the UK?

**BUSS:** We certainly will be looking at it during the course of this year and probably have something ready to the market maybe during the course of next year. It's that sort of time span.

**LEWIS:** Tony Buss of ARAG UK. Well live now to Leicester to talk to Jane Cowley. She's Head of Family Law at lawyers Howes Percival. Jane, insurance first. Some scepticism about it, I must say, among people who've been tweeting to me. Could it work in the UK?

**COWLEY:** I think there certainly is a move towards self-funding and there is less state funding going to be available; so there is an inevitability, I think, that an insurance package will be available. I think there are some concerns. I think if someone feels psychologically they already have their fighting fund in place, then that may prevent early resolution of matters. It could provide an imbalance if one party has funding by means of an insurance policy and another doesn't. So it's a difficult one. I would also say that any costs that are accrued within divorce proceedings are always considered by the court, so in any event if someone did have a policy which paid out, that would fall within the matrimonial pot when the assets are looked at.

**LEWIS:** And I suppose with all this debate about prenuptial agreements and, as you say, the end of legal aid, it might make it more relevant to people. Let's just talk about prenuptial agreements. Are they legally binding now since that Supreme Court decision in, what was it, Granatino case last year?

**COWLEY:** Radmacher and Granatino. They're not legally binding in terms of a binding contract, but they are one of the factors that the courts will take into account when exercising their discretion. And certainly following the judgement you've referred to of Radmacher and Granatino, the Supreme Court judgement, they're given increasing weight. They're a very serious consideration now.

**LEWIS:** Now the Law Commission paper doesn't come down one side or the other, but the fact it's discussing it, I suppose, puts them in people's minds. Do you think we will get a law saying that they should be enforceable?

**COWLEY:** I think it's a difficult one. Family law is based on statute, but actually statute's quite minimal. Most change is received through case law. Whether prenups actually make it into statute, I really don't know. There have been an awful lot of papers and nothing yet has made into statute, but certainly I think prenups have to be looked at and they can't be dismissed any longer.

**LEWIS:** No. Some people might say though that all this talk about prenuptial agreements and insurance and so on makes marriage seem more about money than love.

**COWLEY:** Well it may not seem terribly romantic, but as a practitioner I often hope and would wish that people had perhaps spent more time checking out their compatibility, improving their communication, understanding their attitudes towards finance and risk and children and so on before they enter into marriage and maybe their marriage would actually last rather than sadly end up in divorce.

**LEWIS:** So you get to know people through asking them about money, precisely that?

**COWLEY:** I think the process of entering into a prenuptial agreement actually can be very, very healthy indeed, and I think it's sometimes sad that more emphasis is given to the colour of the flowers or the menus or the wedding venue when people are entering into a lifelong commitment.

**LEWIS:** Jane Cowley from Howes Percival, thanks. And you can respond to that Law Commission consultation paper on its website - law commission in the UK. And just before we move on, Bob Howard's here with news about child maintenance.

**HOWARD:** Yes, Paul. We learnt this week that couples who are separating or divorcing and who get help from the Child Support Agency to settle child maintenance issues could be asked to pay for the service. Under the government proposals parents unable to agree could be charged about £100. The consultation document suggests those on benefits could pay about £50 - £20 of which would be paid upfront and the rest in instalments. The charges would not apply in cases where there's been domestic violence.

**LEWIS:** Thanks, Bob. Customers of some low price budget airlines are paying more for flights from Europe because of the poor exchange rates applied to their transactions. In some instances, the rate difference can add 5% to the ticket price. Our reporter Ben Carter's been looking at this.

**CARTER:** That's right, Paul. A number of airlines are now pricing fares from European destinations to the UK in euros, but it's the company offering you the exchange rate rather than your bank. Most banks either use the daily Visa or Mastercard rate when converting a payment in currency, and this rate is competitive because of the number of people using it. But it's applied when the transaction is processed, which may not be the day the purchase is made. But Ryanair are applying a dynamic currency conversion which guarantees you a rate at the time you are booking. Unfortunately the guaranteed rate is much worse than the Visa rate. Yesterday a flight costing 100 euros would cost you £89 using Ryanair's rate, but just £84 using the Visa rate.

**LEWIS:** And can you get out of this?

**CARTER:** You can, but Ryanair recommend that you don't do that because the rate being offered by your bank can fluctuate and result in a significantly higher cost.

**LEWIS:** That depends of course what happens to the exchange rate because it could just as easily result in a lower cost. Who else is doing this?

**CARTER:** Well EasyJet are doing the same thing - again with one-way flights back

to the UK. They do offer you a sterling equivalent at the point of sale and, like Ryanair, they guarantee the rate, but it's nothing like as good again as the Visa or Mastercard rate. Again you're losing about £5 in the exchange rate on a flight costing 100 euros.

**LEWIS:** And this of course is in addition to the fees charged for using a debit or credit card to make a payment. So the advice for booking flights that start outside the UK is always choose the rate offered by your bank and, in the case of EasyJet, pay in euros rather than sterling because that will work out cheaper?

**CARTER:** That's absolutely right.

**LEWIS:** It's not just businesses using poor exchange rate, is it? Some banks are joining in as well.

**CARTER:** They are. The Royal Bank of Scotland and NatWest are two of the banks that have introduced their own rate. Tesco credit card customers are also receiving a much poorer rate. When I called the banks yesterday, the rate was around 3% worse than the Visa and Mastercard rates.

**LEWIS:** But RBS NatWest and Tesco credit card, they all carry the Mastercard symbol, don't they?

**CARTER:** They do. But in a statement, Royal Bank of Scotland said that they set rates internally using the RBS Treasury rates. I asked them how a customer would know what the rate is and they told us that it would appear on the customer's credit card statement. If you want to know at the time, you need to ring up the UK call centre and ask them, which is likely to prove quite expensive. They also said that their 2.75% foreign exchange fee is more competitive than some rivals - which is true; some do charge 2.99%.

**LEWIS:** Yes, though some charge nothing. Anyway, that still doesn't compensate for

the poor exchange rate. I'm going to talk to Bob Atkinson, a travel expert from Moneysupermarket.com in a moment, but we've had an email already about this. William in Berwick says he bought a flight from Bergerac in France to London with Ryanair. He chose a debit card, which accepted euro transactions. It had a good exchange rate, low charges. He checked and he found the amount in pounds would be £198.44. Having received his statement, he found Ryanair had in fact charged his debit card in sterling, using their own exchange rate: £212.24. So that's, what, about £14 more. Now Bob Atkinson's been patiently waiting - travel expert from Moneysupermarket.com. Bob Atkinson, dynamic currency conversion. It's basically just a way for some banks and businesses to make a few extra pounds, isn't it?

**ATKINSON:** Oh no, it certainly is, and it isn't just on low cost airlines where you can find this kind of operation going on. Anyone travelling overseas and using a sterling based card - when you go to pay for your goods, the point of sale equipment recognises that it's a sterling card and prompts the retailer, the restaurator, whatever, to actually offer you the chance to pay in sterling rather than local currency, and that's the retailer deciding the exchange rate and making additional profit from you.

**LEWIS:** Yes. Not what you expect though when you're sitting at your computer in Britain and you're doing an online transaction of a single flight from Europe, but it's happening there as well.

**ATKINSON:** It is. Obviously the golden rule is to never accept it. Always pay in the local currency because you'll be better off. But with the cases that we've been looking at here and your email over the Ryanair case, when you put your card detail, actually enter the card number in and press 'enter', it recognises it as a sterling card, changes the euro amount to sterling; and unless you notice a very small box to actually have a look at and read, you don't know that that's happened and you're going to be charged a different amount. Ryanair are quite sneaky. Other airlines are a lot more transparent though.

**LEWIS:** Ryanair of course deny that and say this is a perfectly fair choice to offer people. But you think airline websites perhaps should make it clearer?

**ATKINSON:** Well I think yes, it is a choice of a retailer to do that to a customer and a customer needs to be empowered with not only the knowledge but also the ability to change it back if has changed.

**LEWIS:** Yes and of course on both websites you can do that, but you have to know what's going on and make that choice. And just let's move onto these other cards - Tesco, Royal Bank of Scotland, NatWest. I mean they are using their own rates anyway rather than the Visa and Mastercard rate.

**ATKINSON:** Yes they are. And you know they point out, if you talk to them - they're saying, look, you know when you take out a credit card with us, it isn't just overseas transactions. You know you should look at a whole range of different reasons why you have that card. So they point out that they believe that their deal is fair. Also they charge loading fees of around 2.75% on an overseas transaction, which is kind of below the average. However, you're still paying more than you would do on other market leading cards.

**LEWIS:** Though some don't make any charge, do they? Are there still some around that don't make a charge?

**ATKINSON:** There are a range of cards that do not make transaction fees on European purchases - things like the Santander card, Halifax Clarity. There's three or four out there.

**LEWIS:** Bob Atkinson from Moneysupermarket.com, thanks very much. So be careful when paying for foreign goods.

Three major changes to retirement and pensions were confirmed this week. Employers will no longer be able to force their staff to retire just because they reach an age like 65. That will begin in April and apply to everyone from 1<sup>st</sup> October. The state pension age will rise more rapidly for women born from 6<sup>th</sup> April 1953 or later. Some will see another 2 years added to their working life before they can claim the state pension. Men are affected too, though not so badly. State pension age for men

and women rises to 66 for everyone born on 6<sup>th</sup> April 1954 or later, though it will go up again for people born much later. And the third change from October 2012 - the first group of workers will be enrolled automatically in a company pension where they work. Over the next 4 years everyone at work who is paying tax and below pension age and over 22 - over 21, I should say - will follow suit, though they can opt out of course if they want to, but they will be enrolled. Tom McPhail from independent financial advisers Hargreaves Lansdown is waiting to talk to us. Tom, three things to get through in a short time. State pension age first. Now we knew about this, but it will still come as a bit of a shock to a lot of women.

**McPHAIL:** Yes, Paul, and the previous government had already put in place plans to raise the state pension age. Indeed the women's pension age going up from 60 to 65 was first set in train way back in 1995, so they knew that was coming. Now the present government is accelerating that increase and moving everybody up to 66 much sooner than was originally planned.

**LEWIS:** Yes and that's really wrecked some people's plans because suddenly they were expecting one date to retire and that's been moved 2 years in the case of some women.

**McPHAIL:** Absolutely. And I think for some women who have been specifically focusing on a retirement date, making plans around that, they are going to have to make a readjustment. And the government's sort of saying well, look, we're sorry, we have to do this, we have to find ways to save money. Live with it.

**LEWIS:** Yes, I think it's going to save 38 billion over the 10 years from 2016 to 2026, as I recall. Now the default retirement age, that's the moment a firm can say you must leave. That's going to go for anybody during this year, isn't it?

**McPHAIL:** Yes, it is. From April this year employers will no longer be able to tell you that you're going to be kicked out at age 65. I think this is a very interesting change. I know a lot of employers are unhappy about it. The employer lobby groups have been unhappy about how it's going to affect their working practices. I think for

individuals it's good news because it puts them in control, and if you can't afford to retire well you can now have the choice to carry on working; or if you simply enjoy your work, you can carry on working.

**LEWIS:** Yes. It does mean though that employers who might want to get rid of somebody who is getting old and because they're old they are not capable of doing the job - they'll now have to say not "Oh you're 65". They'll have to say "Look, I'm sorry, you're not up to it" and that's going to be more embarrassing, isn't it?

**McPHAIL:** It's going to be more challenging. Workplace review procedures are going to have to be refined, I suspect. What I like about this is that it does now align employers' interests with employees. It's in everybody's interest to make sure those employees do have a decent pension, so they can afford to retire.

**LEWIS:** Yes, well that's a good point. Let's hope that happens. And of course a move towards that is this automatic enrolment into a company pension. It will start in October 2012 and then fully in place in 2017. How's that going to work?

**McPHAIL:** This again is pretty revolutionary stuff, so every employer - however small the business, even if you've got just one employee - every employer where their employees earn more than £7,475 a year will have to enrol their employees into a company pension. Now the government's set up a default scheme if you like called NEST for those employers who don't want to go out and pick a scheme from the marketplace, but every employer will have to designate a scheme, to enrol their employees into it and to start paying money into their pensions for them.

**LEWIS:** Yes, though not perhaps as much as people hope. Tom, we could talk for ages. We've got to stop now. Just make it clear people can leave the scheme once they've been enrolled, but they will all be enrolled. That's all we've got time for. Find out more from our website, [bbc.co.uk/moneybox](http://bbc.co.uk/moneybox), where you can sign up to my newsletter or just read it, download a podcast, listen again, send us your ideas. Oh and you can have your say on finance and divorce, which I forgot to mention earlier. Dear oh dear. I'm back on Wednesday with Money Box Live taking your questions on

renting and letting. Back with Money Box next weekend. There's money news on my Twitter - Paul Lewis Money. Today the reporter was Ben Carter, the producer Ruth Alexander, and I'm Paul Lewis.