

**Oregon State Bar**  
**Legislative Proposal**

**RE: Amendments to ORS 18.345 to create an exemption for child care tax credit.**

**FROM: OSB Consumer Law Section**

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This bill would amend ORS 18.345, which is the statute which provides personal property exemptions to execution on a judgment. These exemptions also reflect the property that is exempt in a chapter 7 bankruptcy filed in Oregon.

The bill would amend ORS 18.345(1) by adding a new subsection as follows:

**( ) The debtor's right to receive an additional child tax credit under the federal tax laws and any moneys that are traceable to a payment of an additional child tax credit under the federal tax laws.**

**1. PROBLEM PRESENTED**

Under the federal tax laws, an individual may be entitled to a child tax credit against any tax owed. The availability of the credit is dependent on the income of the tax payer - the credit has to be reduced if the modified adjusted gross income exceeds certain amounts. At certain incomes the credit is reduced to zero. If the credit is greater than the tax owed, the tax payer receives the difference as part of the tax refund - the "additional child tax credit". Many low income tax payers have little or no tax liability because of lack of income. They may be entitled to the earned income credit, which was made exempt by the Oregon legislature in 2001.

The earned income credit is typically available only to low income individuals and is a necessary part of maintaining a minimal standard of living. The additional child tax credit serves the same purpose and should be exempt. However, when the taxpayer files for bankruptcy, or receives the additional child tax credit and puts it in a bank account, it is subject to forfeiture to the bankruptcy trustee or execution by a judgment creditor.

**2. SOLUTION**

Exempt the additional child tax credit.

**3. PUBLIC POLICY IMPLICATION**

The exemption increases would reflect a public policy that Oregonians are entitled to property necessary for a minimal standard of living.