

B-Engrossed
House Bill 3235

Ordered by the House June 21
Including House Amendments dated March 31 and June 21

Sponsored by Representatives VALDERRAMA, GRAYBER, REYNOLDS, SMITH G, Senator CAMPOS; Representatives ANDERSEN, BOWMAN, DEXTER, FAHEY, GAMBA, NGUYEN H, PHAM H, PHAM K, RUIZ, SOSA, WALTERS, Senators DEMBROW, GORSEK, JAMA, PATTERSON, WOODS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates refundable child tax credit, calculated based on number of dependents of taxpayer that are qualifying children with respect to taxpayer and are under six years of age at close of tax year. Limits credit to five dependents per tax return. Phases out amount of available credit based on adjusted gross income of taxpayer. Adjusts credit amount and phaseout threshold for inflation. **Directs Department of Revenue to make quarterly advance payments of credit amounts. Requires Department of Human Services to seek waiver of federal requirements in Supplemental Nutrition Assistance Program in order to allow recipients of supplemental nutrition assistance to receive advance child tax credit payments.** Provides that credit is not subject to garnishment.

Applies to tax years beginning on or after January 1, [2024] **2023**, and before January 1, [2030] **2029**.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a child tax credit; creating new provisions; amending ORS 18.345, 18.845 and 316.502;
3 and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 to 5 of this 2023 Act are added to and made a part of ORS chapter**
6 **315.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **“Dependent” means an individual who is under the age of six years at the close of the**
9 **tax year and who is a dependent of a taxpayer as described in section 152(a) of the Internal**
10 **Revenue Code, determined without regard to section 152(b)(3) of the Internal Revenue Code.**

11 (b) **“Qualifying child” has the meaning given that term in section 152(c) of the Internal**
12 **Revenue Code.**

13 (c) **“Qualifying income limit” means:**

14 (A) **For a taxpayer other than a taxpayer described in subparagraph (B) of this para-**
15 **graph, adjusted gross income, as defined in section 62 of the Internal Revenue Code, as**
16 **modified using Oregon subtractions and additions, but with losses of a taxpayer added back,**
17 **to the extent that those losses exceed \$20,000; or**

18 (B) **For a nonresident or part-year resident, the greater of the amount determined under**
19 **subparagraph (A) of this paragraph, or adjusted gross income, as defined in section 62 of the**
20 **Internal Revenue Code.**

21 (2) **A taxpayer shall be allowed a credit against the tax otherwise due under ORS chapter**
22 **316 for the tax year, with an amount allowed for each dependent of the taxpayer who is a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **qualifying child with respect to the taxpayer, not to exceed five properly claimed dependents**
2 **per tax return. The credit shall be allowed as provided in subsections (3) and (4) of this sec-**
3 **tion. A taxpayer may claim a credit under this section using an individual taxpayer identifi-**
4 **cation number and may claim it for dependents using individual taxpayer identification**
5 **numbers.**

6 **(3) The credit under this section:**

7 **(a) Shall be in an amount of \$1,000 per dependent of the taxpayer, but, if the taxpayer**
8 **has a qualifying income limit in excess of \$25,000, regardless of the type of income tax return**
9 **filed by the taxpayer, the total amount of the credit shall be reduced as provided in sub-**
10 **section (4) of this section.**

11 **(b) May not be claimed if the percentage calculated in subsection (4) of this section is**
12 **greater than or equal to 100 percent.**

13 **(c) May not be claimed by a married taxpayer who files a separate return.**

14 **(4) If a reduction under subsection (3) of this section is required, the amount by which**
15 **the credit shall be reduced is computed by multiplying the amount otherwise available under**
16 **subsection (3) of this section by a percentage. The percentage is computed by dividing, by**
17 **5,000, the amount by which the taxpayer's qualifying income limit exceeds \$25,000.**

18 **(5)(a) For tax years beginning in each calendar year, the Department of Revenue shall**
19 **adjust the dollar amounts of the credit and of the income threshold set forth in subsections**
20 **(3) and (4) of this section by multiplying each dollar amount by the cost-of-living adjustment**
21 **for the calendar year.**

22 **(b) For purposes of paragraph (a) of this subsection, the cost-of-living adjustment for any**
23 **calendar year is the percentage (if any) by which the monthly averaged U.S. City Average**
24 **Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar**
25 **year exceeds the monthly averaged index for the second quarter of the calendar year 2022.**

26 **(c) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S.**
27 **City Average Consumer Price Index for All Urban Consumers (All Items) as published by the**
28 **Bureau of Labor Statistics of the United States Department of Labor.**

29 **(d) If any increase determined under paragraph (a) of this subsection is not a multiple**
30 **of \$50, the increase shall be rounded to the next lower multiple of \$50.**

31 **(6)(a) If the amount allowable as a credit under this section, when added to the sum of**
32 **the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment**
33 **amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters**
34 **314 and 316 for the tax year after application of any nonrefundable credits allowable for**
35 **purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to**
36 **the taxpayer as provided in ORS 316.502.**

37 **(b) The credit under this section shall be computed after the allowance of any other**
38 **credit or offset against tax liability.**

39 **(7) A nonresident or part-year resident shall be allowed the credit under this section in**
40 **the same manner and, aside from the taxpayer's applicable qualifying income limit, subject**
41 **to the same limitations as a resident. However, the credit shall be prorated using the pro-**
42 **portion provided in ORS 316.117.**

43 **(8) If a change in the tax year of a taxpayer occurs as described in ORS 314.085, or if the**
44 **Department of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit**
45 **allowed by this section shall be prorated or computed in a manner consistent with ORS**

1 314.085.

2 (9) If a change in the status of a taxpayer from resident to nonresident or from nonres-
3 ident to resident occurs, the credit allowed by this section shall be determined in a manner
4 consistent with ORS 316.117.

5 (10) Refunds attributable to the child tax credit allowed under this section do not bear
6 interest.

7 **SECTION 3.** (1) The Department of Revenue shall establish by rule a program for making
8 quarterly payments to taxpayers that, in the aggregate during any calendar year, equal the
9 annual advance amount determined under subsection (2) of this section with respect to a
10 taxpayer for the calendar year. Except as provided in subsection (2)(c)(B) of this section, the
11 periodic payments made to any taxpayer for any calendar year shall be in equal amounts.
12 Quarterly payments under this section may be made only to taxpayers confirmed by the de-
13 partment to be Oregon residents.

14 (2)(a) Except as otherwise provided in this subsection, the annual advance amount ap-
15 plicable to a taxpayer for any calendar year shall be calculated as 50 percent of the amount
16 that would be allowed under section 2 of this 2023 Act for the tax year beginning in that
17 calendar year assuming the following conditions:

18 (A) The status of the taxpayer as eligible for the credit allowed under section 2 of this
19 2023 Act is determined with respect to the reference tax year;

20 (B) The taxpayer's modified adjusted gross income for the tax year is equal to the
21 taxpayer's modified adjusted gross income for the reference tax year;

22 (C) The only children of the taxpayer for the tax year are qualifying children properly
23 claimed on the taxpayer's tax return for the reference tax year; and

24 (D) The ages of the taxpayer's children and the status of the children as qualifying chil-
25 dren are determined for the tax year by taking into account the passage of time since the
26 reference tax year.

27 (b) Except as provided in paragraph (c)(A) of this subsection, the taxpayer's reference
28 tax year shall be determined, with respect to any taxpayer for any calendar year, the
29 taxpayer's tax year beginning in the preceding calendar year or, in the case of taxpayer who
30 did not file a tax return for the tax year, the taxpayer's tax year beginning in the second
31 preceding calendar year.

32 (c)(A) The department may modify, during any calendar year, the annual advance amount
33 with respect to any taxpayer for the calendar year to take into account:

34 (i) A tax return filed by the taxpayer during the calendar year and the tax year to which
35 the return relates may be taken into account as the reference tax year; and

36 (ii) Any other information provided by the taxpayer to the department or otherwise
37 available to the department that allows the department to determine payments under para-
38 graph (a) of this subsection that, in the aggregate during any tax year of the taxpayer, more
39 closely total the department's estimate of the amount treated as allowed under section 2 of
40 this 2023 Act for the tax year of the taxpayer.

41 (B) In the case of any modification of the annual advance amount under subparagraph
42 (A) of this paragraph, the department may adjust the amount of any periodic payment made
43 after the date of the modification to properly take into account the amount by which any
44 periodic payment made before the date was greater than or less than the amount that the
45 payment would have been on the basis of the annual advance amount as so modified.

1 (d) If information contained in the taxpayer's tax return for the reference tax year does
2 not establish the eligibility status of the taxpayer under section 2 of this 2023 Act, the de-
3 partment shall, for purposes of paragraph (a)(A) of this subsection, determine the status
4 based on information known to the department.

5 (e) A child shall not be taken into account in determining the annual advance amount
6 under paragraph (a) of this subsection if the death of the child is known to the department
7 as of the beginning of the calendar year for which the estimate under paragraph (a) of this
8 subsection is made.

9 (3) The department shall establish a system that allows taxpayers to:

10 (a) Elect not to receive payments under this section; and

11 (b) Provide information to the department which would be relevant to a modification
12 under subsection (2)(c)(A) of this section of the annual advance amount, including informa-
13 tion regarding:

14 (A) A change in the number of the taxpayer's qualifying children, including by reason of
15 the birth of a child;

16 (B) A change in the taxpayer's marital status;

17 (C) A significant change in the taxpayer's income; and

18 (D) Any other factor which the department may consider.

19 (4) Not later than January 31 of the calendar year following any calendar year during
20 which the department makes one or more payments to any taxpayer under this section, the
21 department shall provide the taxpayer with a written notice of the aggregate amount of the
22 payments made under this section to the taxpayer during the calendar year, and other in-
23 formation as the department determines appropriate.

24 (5) A quarterly payment under this section may not be made if the amount of the quar-
25 terly payment is calculated to be less than \$25.

26 SECTION 3a. (1) The Department of Revenue, in reviewing the personal income tax re-
27 turns of all individuals who have received payments under section 3 of this 2023 Act, shall:

28 (a) Confirm that, for the tax year during which payments began as provided under sec-
29 tion 4 of this 2023 Act, the taxpayer has claimed a credit under section 2 of this 2023 Act;

30 (b) Reconcile the amounts claimed under section 2 of this 2023 Act against the amounts
31 disbursed under section 3 of this 2023 Act and against the taxpayer's underlying tax liability,
32 if imposed; and

33 (c) Determine whether there is a difference in amounts claimed versus amounts dis-
34 bursed and assess a deficiency against the taxpayer or provide a refund.

35 (2) If a taxpayer who has received any advance payments established under section 3 of
36 this 2023 Act does not claim a credit under section 2 of this 2023 Act, or does not provide
37 sufficient substantiation of eligibility for the claimed amount, the Department of Revenue
38 shall notify the taxpayer of any overpayment attributable to the installment payments made
39 under section 3 of this 2023 Act.

40 (3) The Department of Revenue shall discontinue payments under section 3 of this 2023
41 Act if the department discovers that the taxpayer:

42 (a) Has moved out of this state since first receiving payments;

43 (b) Has changed or is likely to change tax filing status; or

44 (c) Is not reasonably likely to qualify for the tax credit under section 2 of this 2023 Act
45 for the next upcoming tax year for which advance payments are otherwise to be made.

1 (4) Except as otherwise provided in this section and sections 2 and 3 of this 2023 Act or
2 where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the
3 audit and examination of returns, periods of limitation, determination of and notices of de-
4 ficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, con-
5 ferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality
6 of returns and the penalties relative thereto, and the procedures relating thereto, apply to
7 the determinations of taxes, penalties and interest under this section and sections 2 and 3
8 of this 2023 Act.

9 **SECTION 4.** The Department of Revenue shall begin quarterly payments under section 3
10 of this 2023 Act during the second year immediately following the year in which section 3 of
11 this 2023 Act becomes operative under section 5 of this 2023 Act, and shall continue to make
12 quarterly payments in each year thereafter, provided that the payments continue not to af-
13 fect eligibility for federal public assistance programs, under a waiver described in section 6
14 of this 2023 Act or another condition described in section 5 (2) of this 2023 Act.

15 **SECTION 5.** Section 3 of this 2023 Act becomes operative 30 days after whichever of the
16 following occurs first:

17 (1) The United States Department of Agriculture approves the request for waiver under
18 section 6 of this 2023 Act; or

19 (2) The Department of Revenue receives notice that the requirement to include recurring
20 or nonrecurring state payments of income tax refunds, rebates or credits in income-based
21 eligibility determinations for any federal public assistance program is abrogated as a conse-
22 quence of:

23 (a) The enactment of federal legislation;

24 (b) A decision by a controlling court from which there is no further right of appeal; or

25 (c) Publication of federal regulations, guidelines, memoranda or any other official action
26 taken by a federal agency with the authority to alter income-based eligibility determinations
27 for federal public assistance programs.

28 **SECTION 6.** (1) No later than 90 days after the effective date of this 2023 Act, the De-
29 partment of Human Services shall submit to the United States Department of Agriculture a
30 request for approval to waive the requirements of 7 U.S.C. 2014(d)(18) in order to exclude
31 quarterly distributions of an advance payment of the tax credit allowed under section 2 of
32 this 2023 Act from consideration in determining eligibility for supplemental nutrition assist-
33 ance.

34 (2) The department shall report the status of the request to the Legislative Assembly no
35 later than September 15, 2024, and annually thereafter until September 15 following the date
36 that the United States Department of Agriculture approves or denies the request for waiver.

37 **SECTION 7.** Section 6 of this 2023 Act is repealed on January 1, 2029.

38 **SECTION 8.** ORS 316.502, as amended by section 13, chapter 115, Oregon Laws 2022, is
39 amended to read:

40 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and
41 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held
42 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation
43 of the State of Oregon lawfully incurred.

44 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
45 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year

1 exceed the sum of \$1 million.

2 (3) Moneys are continuously appropriated to the Department of Revenue to make:

3 (a) The refunds authorized under subsection (2) of this section; and

4 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264,
5 315.266 and 316.090 and section 3, chapter 589, Oregon Laws 2021, and section 8, chapter 115,
6 Oregon Laws 2022, **and section 2 of this 2023 Act.**

7 **SECTION 9.** ORS 18.345 is amended to read:

8 18.345. (1) All property, including franchises, or rights or interest therein, of the judgment
9 debtor, shall be liable to an execution, except as provided in this section and in other statutes
10 granting exemptions from execution. The following property, or rights or interest therein of the
11 judgment debtor, except as provided in ORS 18.305, shall be exempt from execution:

12 (a) Books, pictures and musical instruments to the value of \$600.

13 (b) Wearing apparel, jewelry and other personal items to the value of \$1,800.

14 (c) The tools, implements, apparatus, team, harness or library, necessary to enable the judgment
15 debtor to carry on the trade, occupation or profession by which the judgment debtor habitually
16 earns a living, to the value of \$5,000.

17 (d) A vehicle to the value of \$3,000. As used in this paragraph "vehicle" includes an automobile,
18 truck, trailer, truck and trailer or other motor vehicle.

19 (e) Domestic animals and poultry kept for family use, to the total value of \$1,000 and food suf-
20 ficient to support such animals and poultry for 60 days.

21 (f) Household goods, furniture, radios, a television set and utensils all to the total value of
22 \$3,000, if the judgment debtor holds the property primarily for the personal, family or household use
23 of the judgment debtor; provisions actually provided for family use and necessary for the support
24 of a householder and family for 60 days and also 60 days' supply of fuel.

25 (g) All property of the state or any county or incorporated city therein, or of any other public
26 or municipal corporation of like character.

27 (h) All professionally prescribed health aids for the debtor or a dependent of the debtor.

28 (i) Spousal support, child support, or separate maintenance to the extent reasonably necessary
29 for the support of the debtor and any dependent of the debtor.

30 (j) The debtor's right to receive, or property that is traceable to, an award under any crime
31 victim reparation law.

32 (k) The debtor's right to receive, or property that is traceable to, a payment or payments, not
33 to exceed a total of \$10,000, on account of personal bodily injury of the debtor or an individual of
34 whom the debtor is a dependent.

35 (L) The debtor's right to receive, or property that is traceable to, a payment in compensation
36 of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent,
37 to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

38 (m) Veterans' benefits and loans.

39 (n) The debtor's right to receive an earned income tax credit under the federal tax laws and any
40 moneys that are traceable to a payment of an earned income tax credit under the federal tax laws.

41 (o) The debtor's right to the assets held in, or right to receive payments under, a medical
42 savings account or health savings account authorized under section 220 or 223 of the Internal Re-
43 venue Code.

44 (p) The debtor's interest, not to exceed \$400 in value, in any personal property. However, this
45 exemption may not be used to increase the amount of any other exemption.

(q) The debtor’s right to receive a tax credit under section 2 of this 2023 Act, and any moneys that are traceable to a payment of a tax credit under section 2 of this 2023 Act.

(2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of which the execution issued to be of a value in excess of that allowed by the appropriate paragraph of subsection (1) of this section, the officer seizing the property shall proceed to sell such property. Out of the proceeds of such sale, the officer shall deduct costs of sale and shall pay to the judgment debtor an amount equivalent to the value declared to be exempt by any of the paragraphs of subsection (1) of this section and shall apply the balance of the proceeds of sale on the execution. A sale may not be made under such execution unless the highest bid made exceeds the appropriate exemption claimed and allowed plus costs of sale. If no bid is received in excess of the value allowed by the appropriate paragraph of subsection (1) of this section, the costs of sale shall be borne by the judgment creditor.

(3) If two or more members of a household are joint judgment debtors, each judgment debtor shall be entitled to claim the exemptions in subsection (1)(a), (b), (c), (d) and (p) of this section in the same or different properties. The exemptions provided by subsection (1)(a), (b), (c), (d), (j), (k) and (p) of this section, when claimed for jointly owned property, may be combined at the option of the debtors.

(4) Notwithstanding any other provision of law except ORS 657.855, if a writ of garnishment or other execution is issued to collect past due support as defined in ORS 18.600, 50 percent of unemployment compensation benefits, workers’ compensation benefits and other benefits paid to the debtor by the United States, by the state or by a political subdivision of the state are exempt. The exemption related to unemployment compensation benefits provided by this subsection is subject to ORS 657.855. The exemption provided by this subsection applies without regard to whether the payment is made on a periodic basis or in a lump sum, including any lump sum payable pursuant to a settlement or judgment. Notwithstanding subsection (1)(k) of this section, if a payment is made under a settlement or judgment on account of personal bodily injury and the garnishment or other execution is issued to collect past due support as defined in ORS 18.600, the lesser of 50 percent of the payment or \$7,500 is exempt.

SECTION 10. ORS 18.845 is amended to read:

18.845. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law relating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

NOTICE OF EXEMPT PROPERTY
AND INSTRUCTIONS FOR
CHALLENGE TO GARNISHMENT

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-

1 FULLY.

2 State and federal law specify that certain property may not be taken. Some of the property that
3 you may be able to get back is listed below.

4 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
5 amounts is greater:

6 (a) 75 percent of your take-home wages; or

7 (b) \$254 per workweek.

8 (2) Social Security benefits.

9 (3) Supplemental Security Income (SSI).

10 (4) Public assistance (welfare).

11 (5) Unemployment benefits.

12 (6) Disability benefits (other than SSI benefits).

13 (7) Workers' compensation benefits.

14 (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in
15 exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are
16 held in a bank account. You may attach copies of bank statements to the Challenge to Garnishment
17 form if you claim this exemption.

18 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
19 for your support or the support of any of your dependents.

20 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
21 by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly
22 own the homestead with another person who is also liable on the debt, up to \$50,000 of the value
23 of the homestead is exempt.

24 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
25 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
26 another homestead.

27 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
28 to exceed \$3,000.

29 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.

30 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
31 occupation, with a combined value not to exceed \$5,000.

32 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.

33 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
34 \$1,800.

35 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
36 and their food for 60 days.

37 (18) Provisions and fuel for your family for 60 days.

38 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
39 may not exceed \$1,000.

40 (20) Public or private pensions.

41 (21) Veterans' benefits and loans.

42 (22) Medical assistance benefits.

43 (23) Health insurance proceeds and disability proceeds of life insurance policies.

44 (24) Cash surrender value of life insurance policies not payable to your estate.

45 (25) Federal annuities.

1 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
2 emption as wages).

3 (27) Professionally prescribed health aids for you or any of your dependents.

4 *(28) Rental assistance to an elderly person allowed pursuant to ORS 458.375.

5 (29) Your right to receive, or property traceable to:

6 (a) An award under any crime victim reparation law.

7 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
8 jury suffered by you or an individual of whom you are a dependent.

9 (c) A payment in compensation of loss of future earnings of you or an individual of whom you
10 are or were a dependent, to the extent reasonably necessary for your support and the support of
11 any of your dependents.

12 (30) Amounts paid to you as an earned income tax credit under federal tax law.

13 (31) Your right to the assets held in, or right to receive payments under, a medical savings ac-
14 count or health savings account authorized under section 220 or 223 of the Internal Revenue Code.

15 *(32) Interest in personal property to the value of \$400, but this cannot be used to increase the
16 amount of any other exemption.

17 (33) Equitable interests in property.

18 (34) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.

19 (35) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
20 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
21 Calculation form.

22 **(36) Amounts paid to you as a tax credit under section 2 of this 2023 Act.**

23
24 Note: If two or more people in your household owe the claim or judgment, each of them may
25 claim the exemptions marked by an asterisk (*).

26
27
28 **SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND**
29 **SPOUSAL SUPPORT.** Some property that may not otherwise be taken for payment against the debt
30 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
31 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
32 only 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
33 obligation.

34
35 **YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.**
36 You may seek to reclaim your exempt property by doing the following:

37 (1) Fill out the Challenge to Garnishment form that you received with this notice.

38 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
39 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the
40 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must
41 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any
42 other money or property is exempt, or claim that the property is not subject to garnishment, you
43 must mail or deliver the form within 30 days after you receive this notice. You have the burden of
44 showing that your challenge is made on time, so you should keep records showing when the chal-
45 lenge was mailed or delivered.

1 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
2 before applying it to the Creditor's use. You may be able to keep the property from being used by
3 the Creditor by promptly following (1) and (2) above.

4
5 You should be prepared to explain your exemption in court. If you have any questions about the
6 garnishment or the debt, you should see an attorney.

7 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
8 ING PURPOSES:

9 (1) To claim such exemptions from garnishment as are permitted by law.

10 (2) To assert that property is not garnishable property under ORS 18.618.

11 (3) To assert that the amount specified in the writ of garnishment as being subject to
12 garnishment is greater than the total amount owed.

13
14 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
15 VALIDITY OF THE DEBT.

16 IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-
17 JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties
18 that you could be subject to are listed in ORS 18.715.

19 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
20 payments under the garnishment to the court, and the Garnishor may be required to pay to the
21 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
22 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
23 their responsibilities, see ORS 18.705 and 18.708.

24
25
26 **SECTION 11. Section 2 of this 2023 Act applies to tax years beginning on or after January**
27 **1, 2023, and before January 1, 2029.**

28 **SECTION 12. This 2023 Act takes effect on the 91st day after the date on which the 2023**
29 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**