Garnishment: The Untold Story

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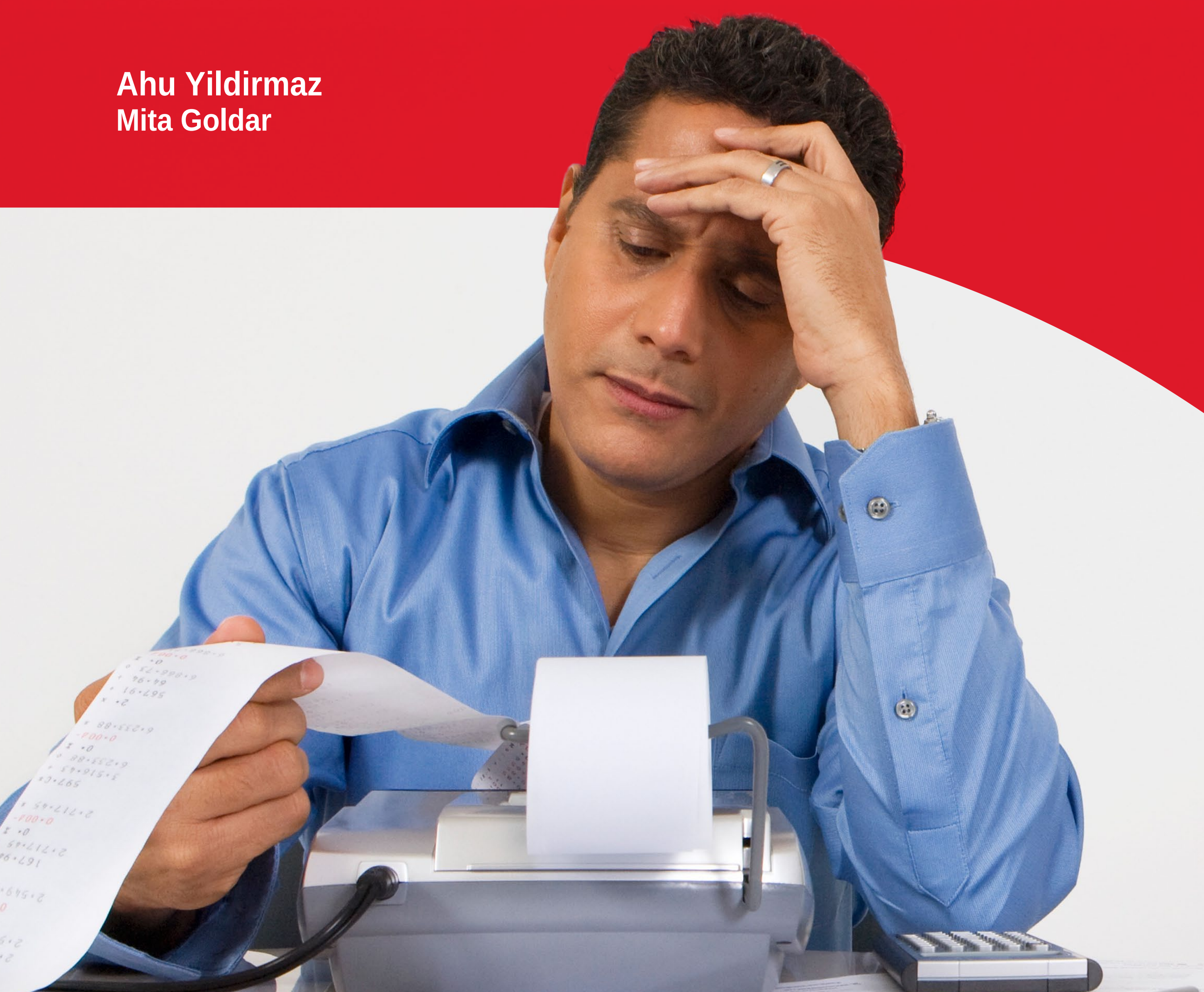

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Executive Summary

Because of a lack of substantiated information about U.S. wage garnishment trends, the following study has been developed to provide insight into employee debt recovery through pay seizure. A better understanding of garnishment may help employers provide new opportunities and improved support in the area of debt management. For this analysis, the ADP Research Institute® used aggregated, anonymous payroll data from 2013, comprised of 13 million employees ages 16 and older. The garnishment rate in this study was defined as the proportion of employees having wages garnished out of the total labor force.

When wages are garnished, an employer withholds money from an employee's paycheck and sends these funds to a creditor until the established debt is paid in full. The impact is often humiliating and stressful for employees. It can result in decreased productivity and motivation that can be detrimental to the affected employee, workplace, and employer. Employers also may be exposed to financial risk in garnishment cases and become liable to creditors for an employee judgment. Both employer and employee interests could be served if companies became more proactive to help those being garnished and potentially decrease future garnishments.

The ADP Research Institute study revealed that in 2013, 7.2% of employees had their wages garnished. Of those having garnishments, 3.4% were for child support, followed by 2.9% for other forms of garnishment of which a major part being student loan and court-ordered consumer debt garnishment, 1.5% for tax levies and 0.4% for bankruptcy. There was no substantial change in these rates for 2011 and 2012. Although, 2011 rates were slightly higher. 7.6% of the employees had their wages garnished in that year.

Garnishment rates were higher among employees of manufacturing companies when compared to service companies, implying a variation between blue- and white-collar environments. Across all categories, wage garnishment increased with size of company.

Younger and older employees had lower rates of garnishment compared to the mid-range age distribution, with increases beginning at age 25 and decreasing by the late 50s. The highest garnishment rate of 10.5% was reported for those between ages 35 and 44, corresponding with the ages of peak debt load. Similar to age spectrums, garnishment was highest at mid-range wage levels and lowest among higher and lower-earners.

Wage garnishment rates were similar for men and women with the exception of withholdings for child support. For child support cases, men's rates were more than 5% higher than females. This may reflect more women than men having custody of children, and therefore, men are more likely than women to be required to pay child support.

Employees in the Northeast had the lowest overall garnishment rate. The Midwest had the highest garnishment rates, other than for tax levy circumstances, which were highest in western areas of the country.

By offering financial counsel, budget education and preventive financial wellness training to employees, employers may minimize the destructive impact of wage garnishment and help employees manage their debt.

Introduction

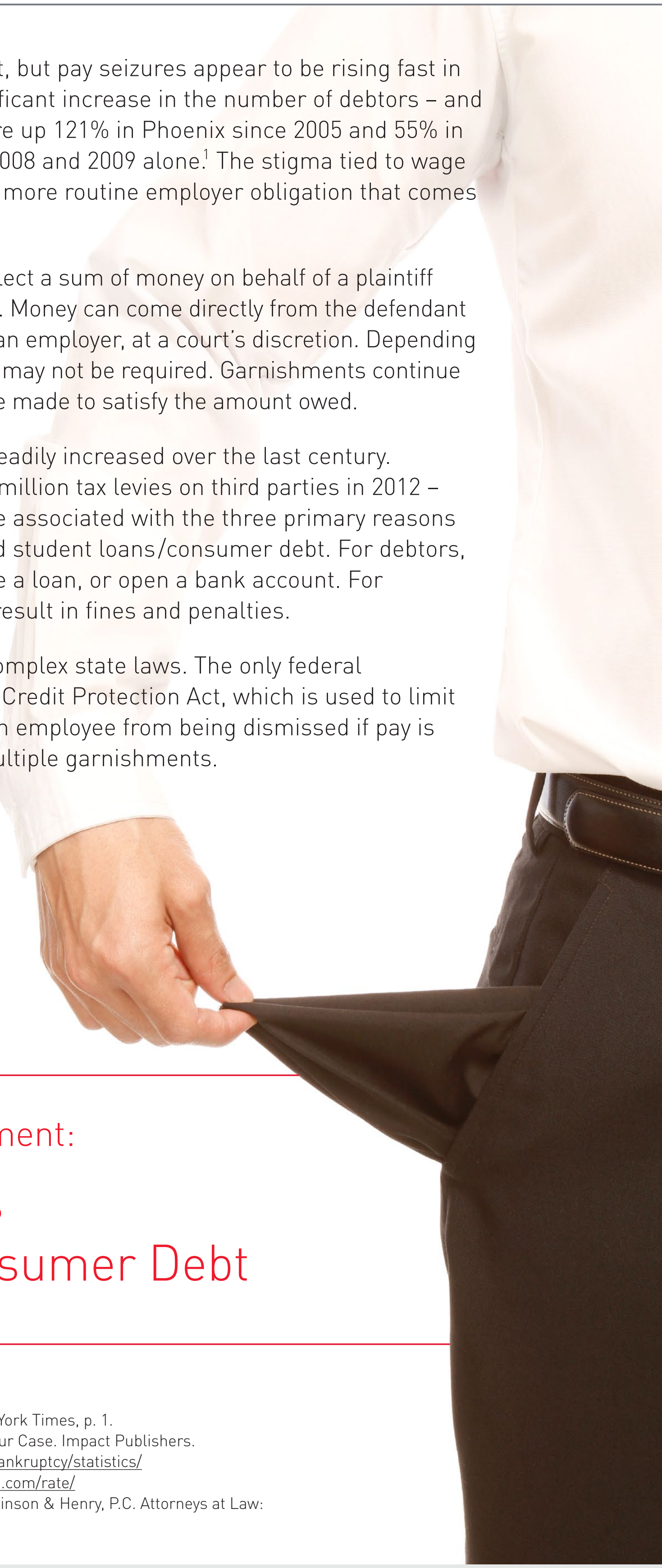
There are limited national statistics about wage garnishment, but pay seizures appear to be rising fast in certain states. The economic downturn has produced a significant increase in the number of debtors – and creditors seem to be suing at higher levels. Garnishments are up 121% in Phoenix since 2005 and 55% in Atlanta since 2004. Cleveland saw a 30% increase between 2008 and 2009 alone.[1] The stigma tied to wage garnishment seems to have decreased, as it appears to be a more routine employer obligation that comes with the hiring of employees.[2]

In the United States, garnishment involves a legal order to collect a sum of money on behalf of a plaintiff from a defendant and is typically a last resort to recover debts. Money can come directly from the defendant (judgement debtor) or from a third party (garnishee), such as an employer, at a court's discretion. Depending on the type of garnishment, a judgment or court order may or may not be required. Garnishments continue until debts are paid in their entirety or other arrangements are made to satisfy the amount owed.

The number of bankruptcy filings in the United States has steadily increased over the last century. The U.S. divorce rate is 50% and the IRS issued just under 3 million tax levies on third parties in 2012 – one million more than in 2011.[3] These national trends may be associated with the three primary reasons for wage garnishment, which are child support, tax liens, and student loans/consumer debt. For debtors, garnishment can negatively affect credit, the ability to receive a loan, or open a bank account. For employers, lack of compliance with garnishment policy can result in fines and penalties.

Garnishments are predominantly regulated by diverse and complex state laws. The only federal government involvement is through Title III of the Consumer Credit Protection Act, which is used to limit the amount of earnings that may be garnished and protect an employee from being dismissed if pay is withheld for only one debt. There is no job protection with multiple garnishments.

In the absence of substantial research to reflect garnishment trends, this study is intended to supply an accurate, detailed landscape by type of garnishment and identify if employees having garnishment had specific characteristics, which differed from the labor force in general. This may help employers better understand and react to the challenges of debt recovery.



Three primary reasons for wage garnishment:

1. Child Support **2.** Tax Liens
3. Other - Student Loans/Consumer Debt

1. Rudolph, J. C. (2010, April 1). Pay Garnishments Rise as Debtors Fall Behind. The New York Times, p. 1.
2. Stewart, J. W. (2000). The Child Custody Book: How to Protect Your Children and Win Your Case. Impact Publishers.
3. Krulick, A. (n.d.). Bankruptcy Statistics. Retrieved from Debt.org: http://www.debt.org/bankruptcy/statistics/
Information on Divorce Rates. (n.d.). Retrieved from Divorce Pad: http://www.divorcepad.com/rate/
Henry, B. (2013, April 3). IRS Wage Garnishment and Lien Statistics. Retrieved from Robinson & Henry, P.C. Attorneys at Law: http://www.robinsonandhenry.com/2013/04/irs-wage-garnishment-and-lien-statistics/

History of Wage Garnishment

The garnishment process was created in most states 100 or more years ago to allow creditors to circumvent a ploy that debtors often used to avoid paying debts. Some debtors would plead poverty, while giving away their assets to a third party for safekeeping to be returned at a later date. Because of the potential for this kind of duplicity, legislators believed that stern treatment under the law was warranted.

Employers today are not inclined to shelter assets or help employees avoid judgment debt payments. However, the laws have not necessarily evolved with the times. As a result, businesses appear to be caught in the middle, striving to fulfill their obligations to employees under wage payment laws and to creditors under garnishment laws.

In May 1968, Congress enacted Title III of the Consumer Credit Protection Act to safeguard garnishees and their families. As a result, a weekly amount withheld may not exceed the lesser of 25% of disposable earnings or the amount by which disposable earnings are greater than 30 times the federal minimum wage for ordinary garnishments. Disposable earnings are defined as the amount that remains after legally required deductions such as taxes, State Unemployment Insurance, Social Security, and required public employee retirement contributions. Rules vary by state, but deductions – not legally required, and therefore likely subject to garnishment – include life and health insurance, charitable contributions, voluntary wage assignments, payroll advances, savings bond purchases, or retirement contributions other than what is required by law. Title III is administered by the Wage and Hour Division of the U.S. Department of Labor, which has no other authority regarding garnishments.[4]

The limits related to disposable earnings apply only to creditors seeking repayment of a debt. They do not apply to tax debt, child support or alimony order, or bankruptcy order. IRS tax levies vary depending on the pay frequency, number of exemptions, and filing status.[5] State tax levies vary, as well as child support and bankruptcy.

Over time, some flexibility has evolved with garnishment in a handful of states. Texas and South Carolina do not issue wage garnishments, but employers in these states may receive garnishments from another state where the employee incurred the debt. Pennsylvania limits garnishments to landlord issues. New Hampshire has made it very difficult for creditors to get a court order against debtors. North Carolina does not issue wage garnishments, but will allow an order from another state to be enforced. North Carolina does allow garnishment for the recovery of public debt, such as taxes, public assistance and charges for hospital and ambulance services.

A relatively new development in the U.S. Bankruptcy system may be impacting the garnishment system. In 2005, a federal law doubled the cost of filing for bankruptcy to more than $2,000. It is unclear how this change is impacting overall wage garnishment trends.

4. http://www.dol.gov/whd/regs/compliance/whdfs30.pdf
5. http://www.irs.gov/pub/irs-pdf/p1494.pdf

The Impact of Garnishment

The impact of wage garnishment on employees extends beyond their paychecks and into every aspect of their lives. Employees often find it humiliating, because the courts have had to intervene and employers have become involved in their otherwise private struggles. Employees in this position may feel they no longer work for themselves and their futures, but for the institutions to which they are indebted. Stress and anxiety are natural outcomes.

Employers can bear the brunt of this employee anxiety in the form of decreased worker productivity and overall lack of motivation. While legally responsible for follow-through on any wage garnishments imposed on employees, companies can become proactive to help those being garnished and potentially decrease future garnishments. By making a financial wellness expert available to provide counsel – offering budget education and establishing preventive financial wellness training – some employers seek to minimize the negative effects of wage garnishment and help employees manage debt. Tax education may help employees successfully lower tax debts in some cases. During fiscal year 2011, the IRS accepted 24,000 offers, representing 37.5% of all offers submitted, as settlements for tax debts, thereby potentially avoiding garnishment.[6]

Employers also may be exposed to financial risk when employees' wages are garnished. Federal and state fines and penalties may be avoided by becoming familiar with garnishment law, developing a reliable and timely procedure for garnishment processing, and ensuring that policies in no way discriminate against an employee facing wage garnishment.

In most states, an employer can become liable to the creditor for the full amount of an employee's judgment for issues involving noncompliance.

6. Henry, B. (2013, April 3). IRS Wage Garnishment and Lien Statistics. Retrieved from Robinson & Henry, P.C. Attorneys at Law: http://www.robinsonandhenry.com/2013/04/irs-wage-garnishment-and-lien-statistics/

Data and Methodology

In this study, the ADP Research Institute used aggregated, anonymous payroll data from 2013, 2012, and 2011. Though all the detailed analyses were based on data from 2013, 2011 and 2012 data were used to check the trend in garnishment. The dataset was comprised of approximately 13 million employees, ages 16 and older. The garnishment categories examined included state and federal bankruptcy, court-ordered as well as private child support, state and federal tax levy, and a general garnishment category comprised of all remaining miscellaneous judgments. A major part of miscellaneous judgments consists of student and consumer loans.

The rate of garnishment was calculated as a percentage of employees having their wages garnished compared to the entire labor force. The focus of the analysis was to paint a picture of the employees whose wages were being garnished.

This research evaluated employees with garnishment along a variety of dimensions – including age and gender demographic profiles, region and state geographic profiles, industry size and type, and wage levels – to identify differing characteristics of these employees.

The study provides sample information from a specified timeframe only and is not intended to represent a measure of garnishment rates per annum.

The focus of the analysis was to paint a picture of the employees whose wages were being garnished.

The Garnishment Landscape

When the garnishment rates were calculated for 2011 and 2012, it was found that 2011 rates were somewhat higher than 2012 and 2013. The overall proportion of employees whose wages were garnished was 7.6 percent. Rates for all individual types of garnishment were also higher. Between 2012 and 2013, there was virtually no change in the garnishment landscape. This might be a result of the continued economic recovery.

Garnishment Rates by Year

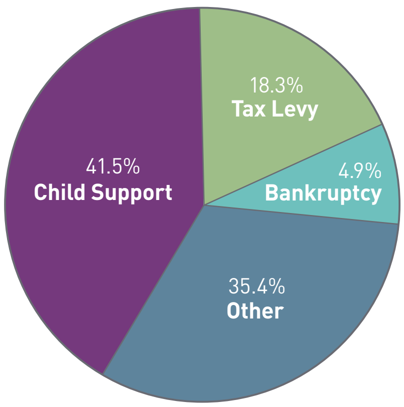
2011	
Child Support	3.5%
Other	3.2%
Tax Levy	1.7%
Bankruptcy	0.5%
Total	**7.6%**

2012	
Child Support	3.4%
Other	2.8%
Tax Levy	1.5%
Bankruptcy	0.4%
Total	**7.2%**

2013	
Child Support	3.4%
Other	2.9%
Tax Levy	1.5%
Bankruptcy	0.4%
Total	**7.2%**

MOST GARNISHMENTS WERE DUE TO CHILD SUPPORT

Among all employees in the sample from 2013, wages were garnished for 7.2% of employees, with the highest rate being for reasons of child support (3.4%), followed by "other", most being for student loans and consumer loans (2.9%), tax levy (1.5%), and bankruptcy (0.4%). In a few cases, the same person carried more than one type of garnishment. Hence the total number of unique employees having garnishment was slightly less when compared to the total of individual types of garnishment. This chart shows the share of each type of garnishment among the garnished employees.



Garnishment Share by Type

GARNISHMENT WAS HIGHEST IN MANUFACTURING

More than 10% of the employees had garnishment in Manufacturing and in the Transportation & Utilities sector. For tax levy garnishments, the rates were consistent across all industry sectors. In contrast, child support garnishment varied considerably across the sectors, with the highest rates observed in Transportation & Utilities (6.6%). The Professional & Business Services sector had one of the lowest rates in all categories of garnishment.

When firms were considered, in Manufacturing 48% of the firms had at least one or more employees with garnishment. On the other hand, approximately one in five companies had garnishments in the sectors of Professional & Business Services, Education & Health Services, and Financial Activities. This disparity suggests a possible relationship between garnishment and blue- and white-collar job categories.

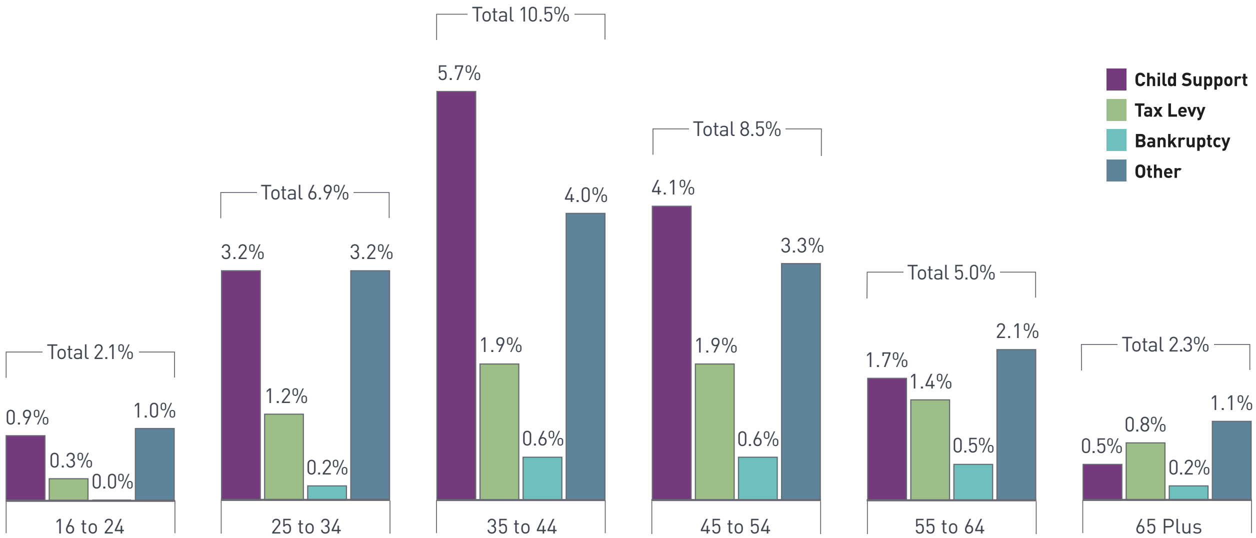
Garnishment Rates by Industry

Industry Sector	Child Support	Tax Levy	Bankruptcy	Other	Total	% of Companies w/ Garnishment
Manufacturing	5.6%	1.8%	0.7%	3.8%	10.2%	48%
Transportation & Utilities	6.6%	2.1%	0.7%	3.5%	11.2%	42%
Information	2.3%	1.2%	0.3%	2.4%	5.5%	31%
Construction	5.4%	1.9%	0.3%	2.6%	9.1%	31%
Wholesale & Retail Trade	3.8%	1.5%	0.4%	3.1%	7.8%	30%
Leisure & Hospitality	3.0%	1.5%	0.2%	2.7%	6.5%	26%
Financial Activities	2.5%	1.3%	0.3%	3.1%	6.4%	23%
Professional & Business Services	2.5%	1.2%	0.3%	2.1%	5.4%	23%
Education & Health Services	1.6%	1.3%	0.4%	3.0%	5.7%	23%

GARNISHMENT WAS HIGHEST AMONG MIDDLE-AGE GROUPS

Although the overall wage garnishment rate was about 7%, younger and older employees had lower rates of garnishment compared to the mid-range age group. Rates saw a notable increase beginning at age 25 and a notable decrease in the late 50s. The highest garnishment rate was 10.5% for those in the 35-to-44 age group, which is typically the age of peak debt load, child rearing, and divorce.

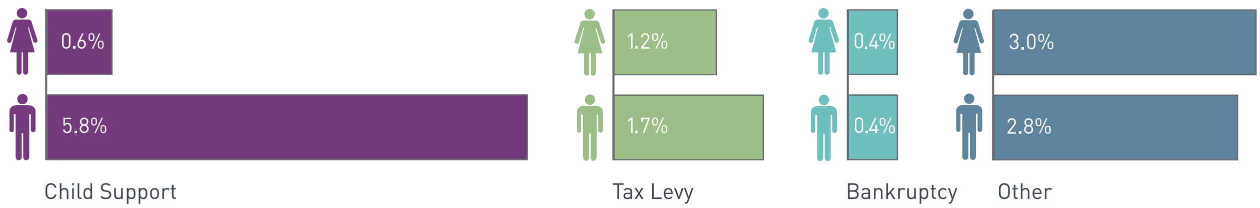
Garnishment Rates by Age Group



MORE MALES THAN FEMALES FACED CHILD SUPPORT GARNISHMENT

For nearly all categories, garnishment rates were similar for men and women and identical for bankruptcy. However, there was a substantial difference in child support garnishment rates between genders. Females had a 0.6% rate, while males had a 5.8% rate. This finding may reflect that more women than men have physical custody of children, and men are more likely to be required to pay child support.

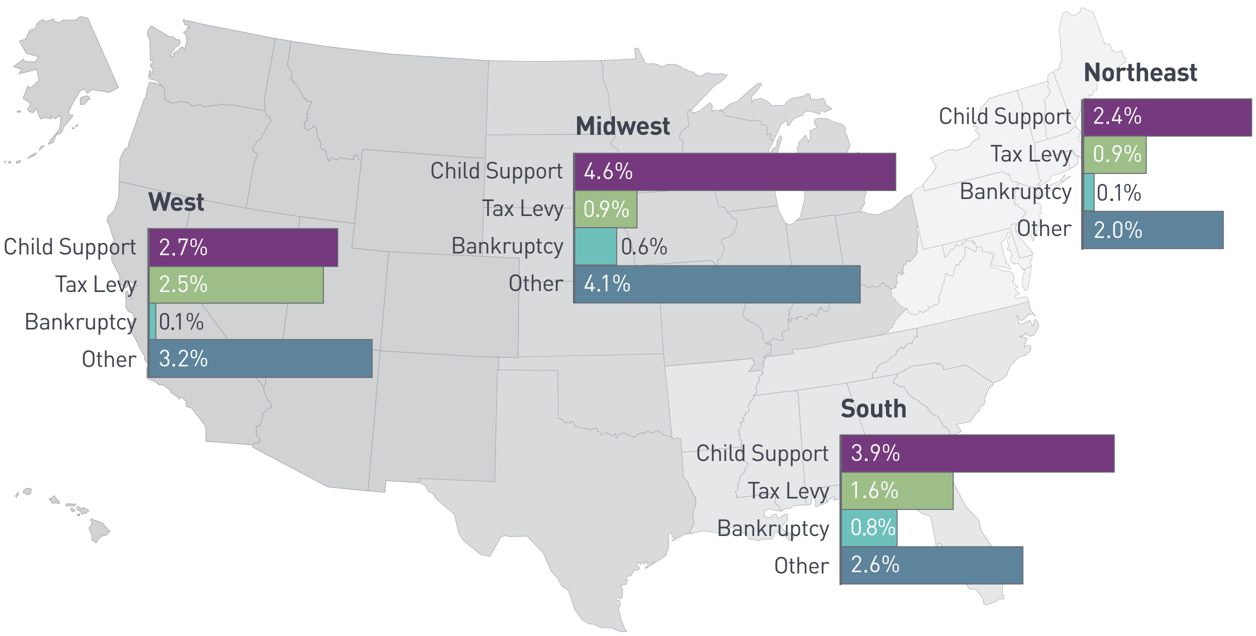
Garnishment Rates by Gender



THE MIDWEST WAS HIGHEST IN GARNISHMENT BY GEOGRAPHIC REGION

In two of the top categories of garnishments, bankruptcy and child support, the Midwest section of the United States had the highest rates when compared to the Northeast, South and West. The Northeast had the lowest overall garnishment rates. The western section of the country was consistently lower with the exception of the tax levy category. One of the reasons for this disparity is the variation in industry concentration among these regions. The South and Midwest have more manufacturing companies than the Northeast and West, and the rate of garnishment in the manufacturing sector is higher than the service sector.

Garnishment Rates by Region



LARGER COMPANIES HAD HIGHER GARNISHMENT

Across all categories, wage garnishment increased by size of company. Businesses with 5,000 or more employees had the highest tax levy, bankruptcy, and miscellaneous garnishment rates. Businesses with 1,000 to 4,999 employees had the highest garnishment rate for child support.

Garnishment Rates by Company Size

Company Size	Child Support	Tax Levy	Bankruptcy	Other	Total
01- 19 Employees	1.8%	0.3%	0.1%	0.4%	2.6%
20- 49 Employees	2.1%	0.5%	0.1%	0.8%	3.4%
50-499 Employees	3.1%	1.3%	0.3%	2.3%	6.1%
500-999 Employees	3.7%	1.6%	0.5%	3.0%	7.7%
1000-4999 Employees	4.0%	1.7%	0.5%	3.5%	8.5%
>=5000 Employees	3.8%	1.9%	0.6%	4.5%	9.3%

GARNISHMENT RATES INCREASED AMONG MID-RANGE COMPENSATION GROUPS

Similar to age spectrum data, garnishment rates were highest at mid-range wage levels and the lowest among higher and lower earners. The highest rates in most garnishment categories were reported among those earning between $25,000 and $40,000. Child support rates were highest for those earning $40,000 to $60,000.

Garnishment Rates by Wages

Compensation Group	Child Support	Tax Levy	Bankruptcy	Other	Total
$1500 - $7,499	0.9%	0.6%	0.0%	1.1%	2.4%
$7,500 - $14,999	2.1%	1.0%	0.1%	2.5%	5.2%
$15,000 - $24,999	3.4%	1.6%	0.3%	4.1%	8.4%
$25,000 - $39,999	4.4%	2.0%	0.6%	4.6%	10.0%
$40,000 - $59,999	4.5%	1.9%	0.6%	3.6%	9.1%
$60,000 - $79,999	3.6%	1.4%	0.5%	2.1%	6.7%
$80,000 - $109,999	2.7%	1.1%	0.3%	1.3%	4.7%
$110,000 - $199,999	1.8%	0.7%	0.1%	0.6%	3.0%
$200,000+	1.1%	0.5%	0.0%	0.3%	1.8%

Conclusions

For employers, garnishment presents a challenge of balancing consistent, compassionate care of employees with an obligation to comply with varying wage garnishment requirements. A lack of compliance with garnishment policy can result in significant fines and penalties. Moreover, pay seizures appear to be rising quickly in certain states, as the economic downturn has produced a significant increase in the number of debtors.

In this analysis, those industry sectors with a higher number of blue-collar workers faced a disproportionate number of garnishments when compared to other sectors. The Manufacturing sector had the highest percentage of companies with garnishment (48%) – more than double the percentage in the Professional & Business Services, Education & Health Services, and Financial Activities sectors. The second-highest industry sector – Transportation & Utilities – also has a high number of blue-collar workers.

Workers, ages 35 to 44 years old, face the issues that most likely can eventually lead to wage garnishment. Debt levels are highest for them at this stage of life and most are rearing children. Divorce is most common at this age. These age-related statistics seem to explain why the garnishment rate (10.5%) was highest for those in the 35-to-44 age group.

During these middle-age years, salaries are typically in the mid-range. That may be the reason garnishment rates were highest at mid-range wage levels and lowest with higher and lower earners. The highest rates in most garnishment categories were reported among those earning between $25,000 and $40,000. Child support garnishment rates were highest for those earning $40,000 to $60,000.

Women and men experienced similar garnishment rates in nearly all categories, and the rates were identical in bankruptcy. However, there was a substantial difference in child support garnishment rates between genders. Females had a 0.6% rate, while males had a 5.8% rate. Those industries employing high numbers of men may see higher overall garnishment rates.

Across all categories, wage garnishment increased by the size of company. The reasons behind this pattern are unclear, but they may be related to the types of companies most likely to employ blue-collar workers in large numbers or employ large numbers of workers in their mid-career. Businesses with more than 5,000 employees had the highest tax levy, bankruptcy, and miscellaneous garnishment rates. Businesses with 1,000 to 4,999 employees had the highest garnishment rate for child support.

State and lien type requirements vary widely, and employers must be ready to manage internal processes to meet them.

In the end, a comprehensive approach is needed to protect against unwarranted liability, while serving employees compassionately and cost-effectively.

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