Garnishment Compliance: Updates and Trends

What you need to know in today's environment
December 10, 2008

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Financial and Compliance Services

Speakers

- **Lorellee Welch**
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- **Corrinne Flores**
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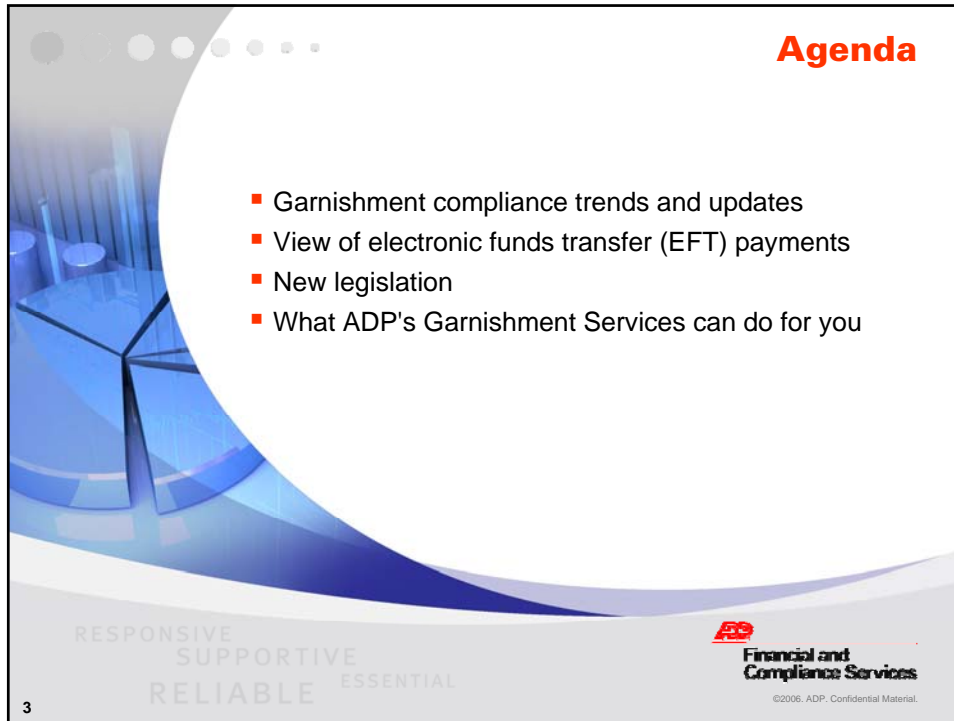RESPONSIVE SUPPORTIVE RELIABLE ESSENTIAL

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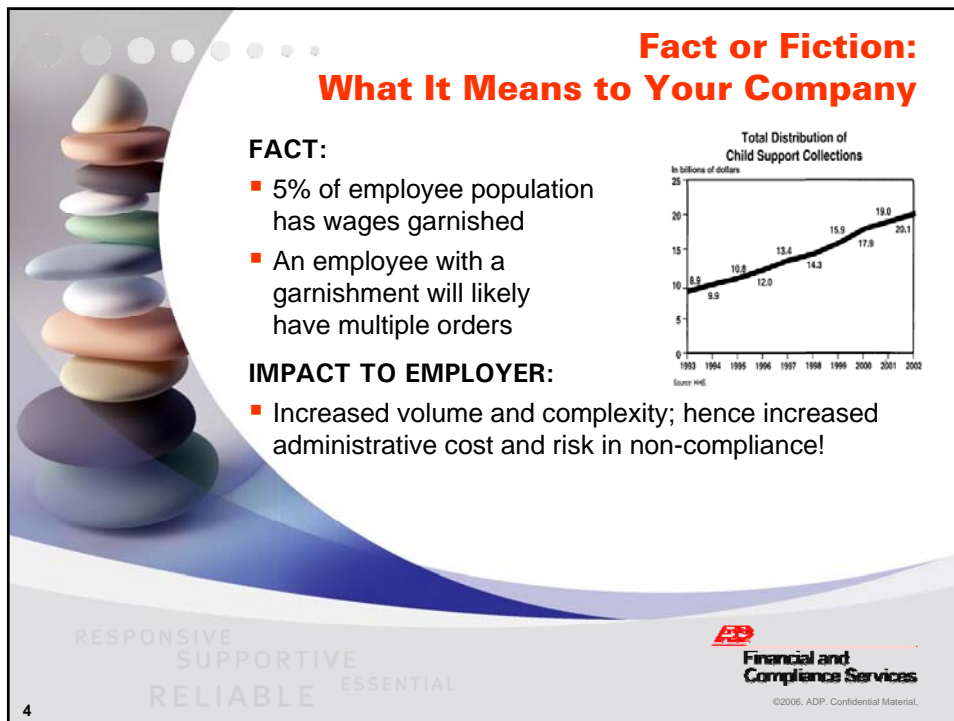1-800-CALL-ADP, ext. 228

Agenda

- Garnishment compliance trends and updates
- View of electronic funds transfer (EFT) payments
- New legislation
- What ADP's Garnishment Services can do for you

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Fact or Fiction:
What It Means to Your Company

FACT:

- 5% of employee population has wages garnished
- An employee with a garnishment will likely have multiple orders

IMPACT TO EMPLOYER:

- Increased volume and complexity; hence increased administrative cost and risk in non-compliance!

Total Distribution of
Child Support Collections
In billions of dollars

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Fact or Fiction: What It Means to Your Company?

FACT:

- The federal government has reduced the funding for states to collect child support; therefore, states are aggressively looking for ways to reduce costs in collecting child support
  - EFT mandates with penalties
  - Increased penalties for not processing orders

IMPACT TO EMPLOYER:

- Increased spending in development resources, increased administrative burden, and increased risk of non-compliance!

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Fact or Fiction: What It Means to Your Company?

FICTION:

- Employers are not liable for 100% of the outstanding garnishment amount for incorrect or late processing of garnishment orders

IMPACT TO EMPLOYER:

- The reality is that you could be held liable for the entire garnishment amount, not to mention the costs of litigation and research time
- Court Case: AutoZone was ordered to pay $20,000 fine to a custodial parent for not releasing child support withholding promptly

(**Source:** IOMA'S Payroll Manager's Report, New York, May 2005. Vol5, Iss. 5)

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Speaker

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ADP Garnishment Services
Agency Relations

**Our commitment is to keep you up-to-date
in the regulatory environment**

- Dedicated in-house attorneys and paralegals
- Corporate Government Liaisons
- Agency Relations
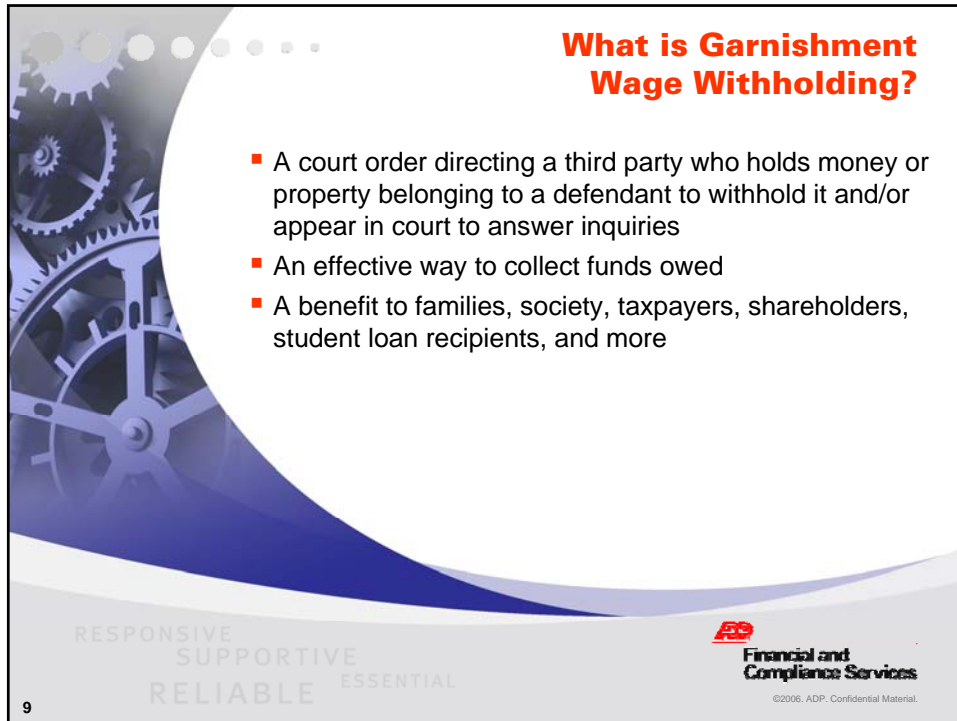- Compliance Analysts

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What is Garnishment Wage Withholding?

- A court order directing a third party who holds money or property belonging to a defendant to withhold it and/or appear in court to answer inquiries
- An effective way to collect funds owed
- A benefit to families, society, taxpayers, shareholders, student loan recipients, and more

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Federal Consumer Protection Act (FCCPA)

- Established by the Department of Labor
  - Employment Standards Administration Wage and Hour Division
  - Title III of FCCPA
- Established standards and guidelines
- Limits amount of earnings that may be garnished
  - Child support limits
  - Garnishment limits
- The Act protects employee from being fired if wage is garnished

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Common Lien Types and Current Trends

- Child support
- Creditor garnishments
- Federal and state tax levies
- Federal and state student loans
- Bankruptcies
- Wage assignments

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Lien Type: Tax Levy

- Levy can be federal, state, or local
  - Optional voluntary agreement with IRS
- Obligations on federal levy include:
  - Notify employee
  - Provide copy of exemption notice
  - Withhold until release is received
  - Notify IRS if person is not an employee or if terminated

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Lien Type: Creditor Garnishments

- Increase in credit borrowing
  - Six billion credit card solicitations per year
- Various states require specific responses
  - Notaries
  - Copies to third parties
  - Certification of mailings
  - Frequency of responses
    - Multiple times, only the first time, attached to payment, etc.
  - On state form or "in lieu of" forms

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Lien Type: Wage Assignments

- Voluntary agreement to withhold wages
- Employers not required to honor
- Governed by state laws
  - Some states prohibit wage assignments
- Does not fall under FCCPA requirements

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Lien Type: Student Loan Garnishments

- Up to 15% of borrowers do not repay student loans
- "Guarantee" agencies handle on behalf of Department of Education
- Limit can be between 10-15%, and can allow for multiple student loan garnishments to be withheld at one time

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Lien Type: Bankruptcy

- 822,590 bankruptcies filed in 2007
  - Expecting 2008 to be the highest year in filings since the Bankruptcy Abuse Prevention and Consumer Protection Act passed in 2005
  - 880,076 consumer filings through the first 10 months of 2008
  - 95-98% are non-business filing cases
- Three primary reasons people seek BK protection
  - Job loss
  - Medical bills
  - Divorce

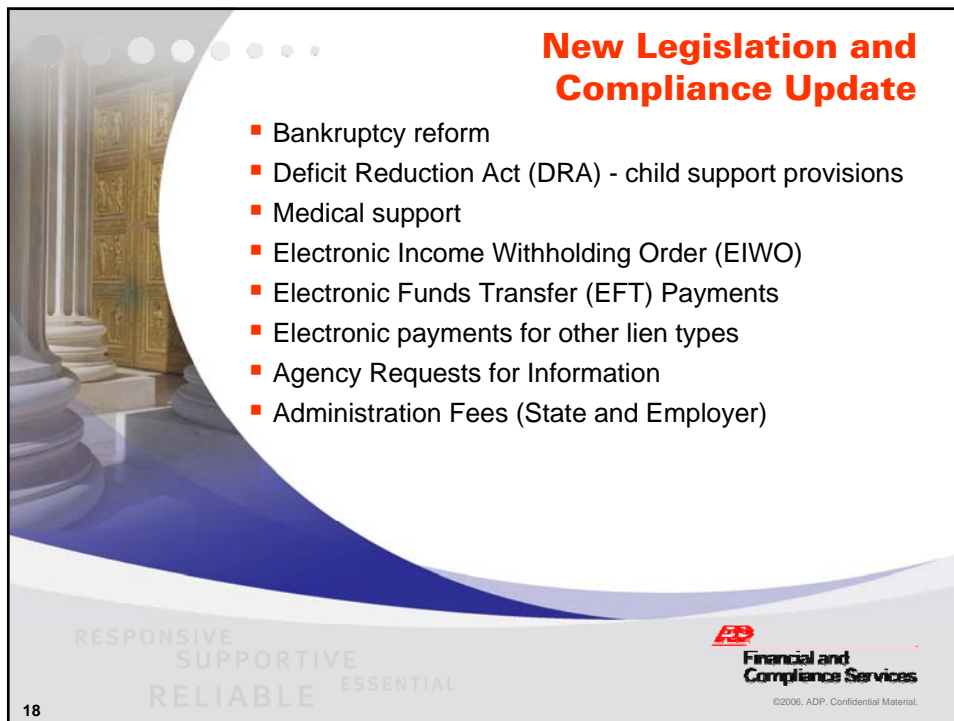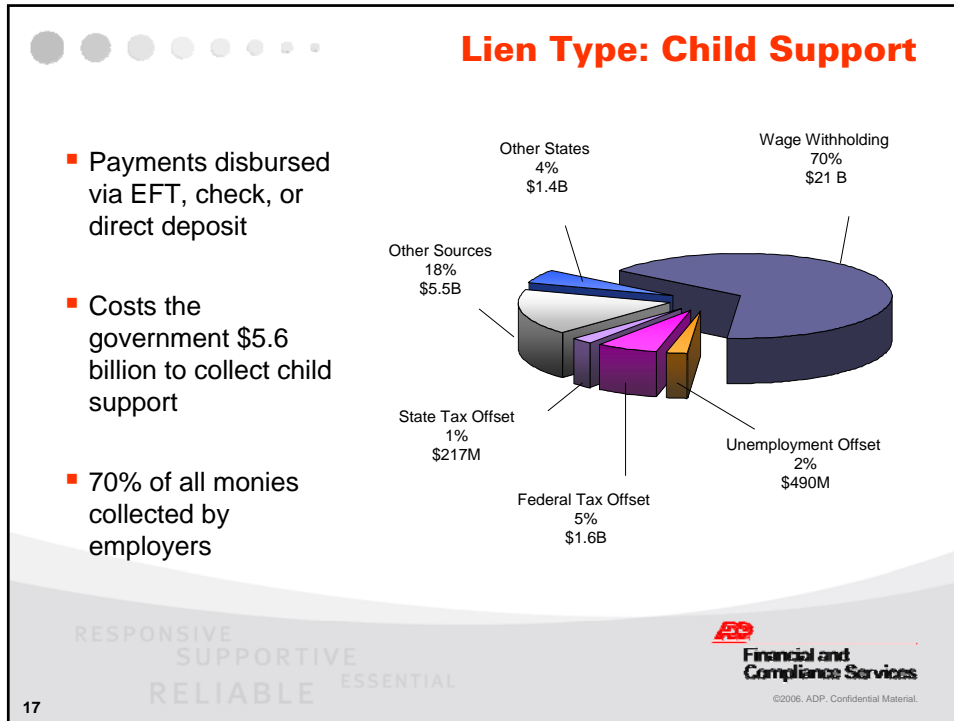RESPONSIVE
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Lien Type: Child Support

- Payments disbursed via EFT, check, or direct deposit

- Costs the government $5.6 billion to collect child support

- 70% of all monies collected by employers

Other States
4%
$1.4B

Wage Withholding
70%
$21 B

Other Sources
18%
$5.5B

State Tax Offset
1%
$217M

Federal Tax Offset
5%
$1.6B

Unemployment Offset
2%
$490M

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New Legislation and Compliance Update

- Bankruptcy reform
- Deficit Reduction Act (DRA) - child support provisions
- Medical support
- Electronic Income Withholding Order (EIWO)
- Electronic Funds Transfer (EFT) Payments
- Electronic payments for other lien types
- Agency Requests for Information
- Administration Fees (State and Employer)

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Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA)

- Effective October 17, 2005, laws passed to reform bankruptcy process
- Changes included:
  - Strict rules for filing Chapter 7 resulted in an increase in Chapter 13 filings
    - Q1 of 2006 has 20 year low - 82.5% decrease from previous quarter
    - At one-year mark, new filings were 475K vs. average of 1.4 million
    - 2008 bankruptcy numbers will increase to the highest since the law passed
  - Strict requirements and audit procedures
  - Increased filing fees
  - Extended normal 3-year payment plan to 5-year payment plan
    - Increase in payment plans sent to employers

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DRA – Child Support Provisions

- $5.6 billion spent for administration in 2006
  - $3.7 billion in federal expense and $1.9 billion in state
  - RESULT:
    - Child support agencies are looking to reduce costs and aggressively focusing on fines and penalties
    - Agency EFT mandates with penalties are increasing
    - Stronger noncompliance penalties
    - Imposing of new hire reporting penalties
- DRA cuts state programs by $40 billion within the next 5 years including:
  - Health care
  - Student loans
  - Child support enforcement
  - Foster care funding
- Child Support Protection Act of 2007
  - States and Child Support Advocacy Groups are looking to restore the lost funding for the child support programs

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Medical Support Orders

- National Medical Support Order
  - Send to custodial parent's employer
  - Send to non-custodial parent's employer
  - Direct employer need to enroll the child in medical insurance
  - Employer needs to deduct a flat dollar amount
- Civil penalties may apply for noncompliance
- Impact to Employers
  - Complexity arises due to calculation - varies by state, varies by counties within a state
  - Amount to include for child only, non-custodial parent and child, and/or family
  - Calculation includes the premium in maximum withholding limits
  - Order may require new medical information "Answers" or "Responses"

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Electronic Income Withholding Order (EIWO)

- For child support lien types only
- Allows states to send income withholding order electronically
- Office of Child Support Enforcement creating a portal to allow a central processing point
- 38 participating states
- Trend that most states will eventually participate (if resources are available)
- Impact to Employers
  - Future enhancements or maintenance required
  - Development efforts are extensive and costly
  - Acknowledgements required at two levels of authority
  - Requires notification to employees
  - States not required to implement

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Electronic Funds Transfer (EFT) Payments

- Ten states currently mandating EFT
  - CA, FL, IL, IN, MA, NE, OH, OR, PA, VA
    - As of July 17, 2008, Nebraska requires all employers with at least 50 or more employees are to remit payments via EFT
- Faster receipt of payments
- Reduced errors / unidentified payments
- Agencies realize labor savings
- Faster disbursements to families

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Electronic Payments for Other Lien Types

- Effective way to submit payments
- Employers want standardization
- ADP's initiative to establish electronic payments with agencies

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Agency Request For Information

- Determine preliminary information on possible fraud or estimate of amount to be garnished
- Increasing requests from states
- States want access to shared information
- Employers need to provide information promptly and accurately

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Administration Fees

- Effective way for states to mitigate processing costs
- Varies between states
  - Charged to plaintiff, defendant
  - Per payment, per garnishment, etc.
- Fees may be charged to those who have never received state aid and have already received over $500 in child support
- Additional processing challenges for employers and agencies
- Agencies may require segregation of funds for the fee

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It's Your Responsibility to Comply

- Withholding of involuntary deductions, such as garnishments
- Administration of documents upon receipt
- Disbursements to concerned parties

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Current Business Challenges

- Staff overburdened with multiple tasks
- Decentralized process equates to increased risk
- More diverse employee population
- Dynamic compliance environment
- New/changing agency requirements
- States' requests for electronic disbursement is adding cost & complexity to process
- Ongoing garnishment training requirements to remain current with existing regulations
- Garnishment interpretation, correspondence, and follow up is time consuming
- Sarbanes-Oxley Compliance – costly, complex, & time consuming
- Handling phone calls from different directions

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Typical In-House Garnishment Tasks

RECEIPT	COURT ORDER INTERPRETATION	NOTIFICATION	CALCULATION	DISBURSEMENT	PHONE CALL HANDLING
Open and sort mail, image document	Read withholding orders	Notify employees when a withholding order has been received	Calculate disposable income by state rules	Make payment(s) via check or EFT as required by some states	Answer to payees who did not get their payment
Scan withholding orders for record retention	Identify lien type	Generate and send "Answers" according to state requirements	Prioritize garnishments by state rules	Coordinate payment with Accounts Payable Dept.	Answer to payees who did not get the expected payment
Deliver mail	Identify if order is new, modified or released	Generate and send interrogatories according to state requirements	Apply state's applicable maximum allowable deduction	Maintain historical payment data	Answer to employee questions
File withholding orders in folders	Identify if employee is active or inactive		Apply appropriate state rules if not enough earnings	Maintain list of payee destinations	Answer to misplaced check
	Identify federal and state regulations		Apply appropriate deductions	Track garnishment payment status	Request for payee change of address
	Data entry to pay systems			Reconcile GL account and bank statement	Answers and interrogatories inquiries
	Legal department interaction pertaining to withholding order instructions, or negotiate judgements or defaults			Pay any late fees	Research, respond to, and manage judgment or default notices
	Contact agencies or courts when orders are vague or illegible			Handle stop payments and check reissues	
				Attach required "Answer" forms with payment	
				Offer direct deposit capabilities for private child support orders	
				Track garnishment payment status	

Employers handle many complex tasks in garnishment processing, from receipt to disbursement and support

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Outsourced Garnishment Tasks with ADP

RECEIPT	COURT ORDER INTERPRETATION	NOTIFICATION	CALCULATION	DISBURSEMENT	PHONE CALL HANDLING
Open and sort mail, image document	Read withholding orders	Notify employees when a withholding order has been received	Calculate disposable income by state rules	Make payment(s) via check or EFT as required by some states	Answer to payees who did not get their payment
Scan withholding orders for record retention	Identify lien type	Generate and send "Answers" according to state requirements	Prioritize garnishments by state rules	Coordinate payment with Accounts Payable Dept.	Answer to payees who did not get the expected payment
Deliver mail	Identify if order is new, modified or released	Generate and send interrogatories according to state requirements	Apply state's applicable maximum allowable deduction	Maintain historical payment data	Answer to employee questions
File withholding orders in folders	Identify if employee is active or inactive		Apply appropriate state rules if not enough earnings	Maintain list of payee destinations	Answer to misplaced check
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	Contact agencies or courts if orders are vague or illegible			Handle stop payments and check reissues	
				Attach required "Answer" forms with payment	
				Offer direct deposit capabilities for private child support orders	
				Track garnishment payment status	

■ ADP and Client shared responsibility

95%
Of employers tasks are eliminated with ADP's Garnishment Services

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Automatic Data Processing, Inc.

- Leading solutions provider for nearly 60 years
- Nearly $9 billion revenue in global services
  - 585,000 clients
  - 46,000 associates worldwide
  - Electronically moved over One Trillion in client related funds
  - Submitted 49.1 million W-2s in 2007, and electronically filed 2.2 million federal returns—7.2% of all returns the IRS receives. The IRS has determined that ADP's filings are *fifteen times* more accurate than the average returns received.

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ADP pays 1 in every 6 workers

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Our Mission To You

Client Focus

Commitment
to Service

Lifetime
Partnership

World Class Service

Reduce Cost

FACS

Ensure Compliance

Leading Edge Best Practices

Eliminate non-core business functions

Positive ROI

Dedicated expertise

Well-established agency relationships

Risk Mitigation

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ADP Garnishment Services Highlights

- Garnishment Processing since 1997
    - Comprehensive service launched 2001
- Liens Processed: Over 91,000 orders per month
    - 65% Child Support Orders
    - 35% Other Types
- Payments Disbursed: Over 720,000 per month
    - 62% EFT
    - 38% ADP Check
- Over $1.4 billion garnishment disbursements in 2008
- Major contributor to defining EFT processes and data elements

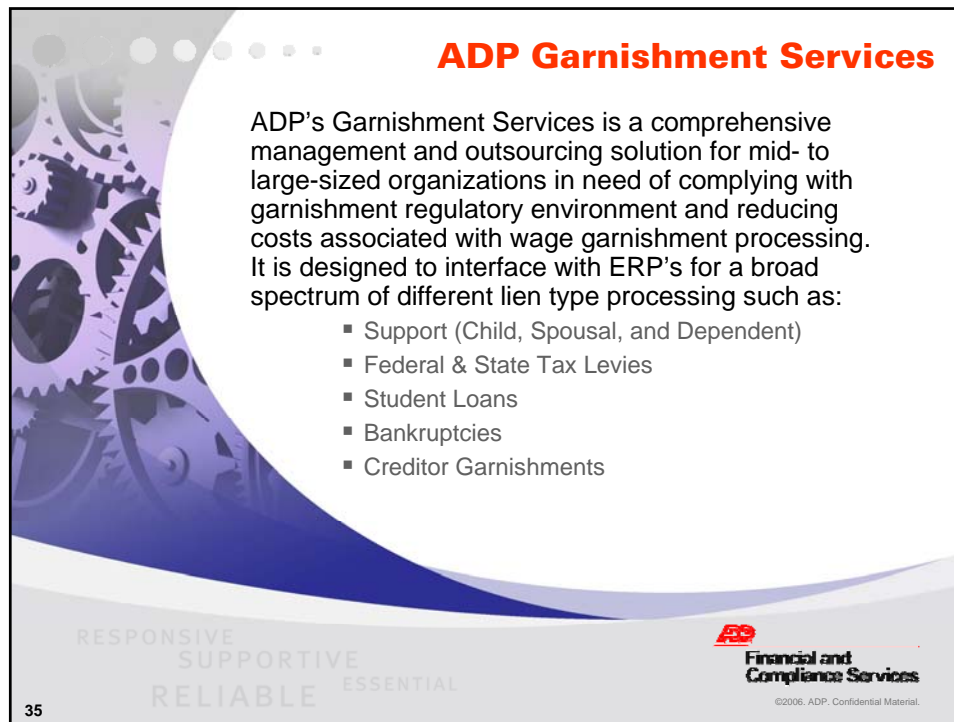*Largest depositor to all State Disbursement Units*

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ADP Garnishment Services

ADP's Garnishment Services is a comprehensive management and outsourcing solution for mid- to large-sized organizations in need of complying with garnishment regulatory environment and reducing costs associated with wage garnishment processing. It is designed to interface with ERP's for a broad spectrum of different lien type processing such as:
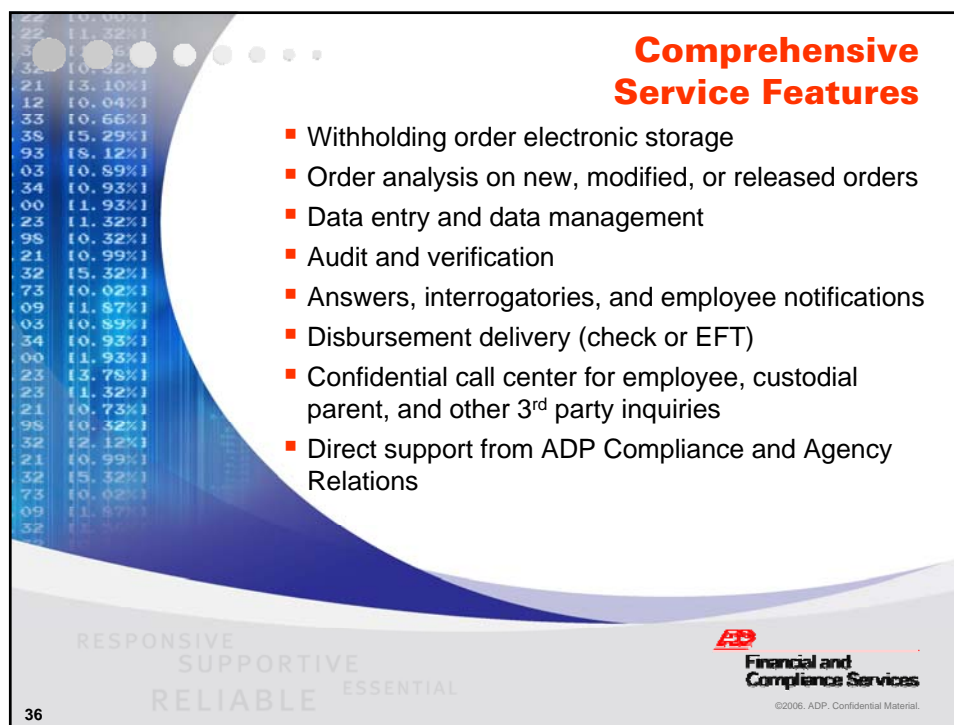
- Support (Child, Spousal, and Dependent)
- Federal & State Tax Levies
- Student Loans
- Bankruptcies
- Creditor Garnishments

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Comprehensive Service Features

- Withholding order electronic storage
- Order analysis on new, modified, or released orders
- Data entry and data management
- Audit and verification
- Answers, interrogatories, and employee notifications
- Disbursement delivery (check or EFT)
- Confidential call center for employee, custodial parent, and other 3rd party inquiries
- Direct support from ADP Compliance and Agency Relations

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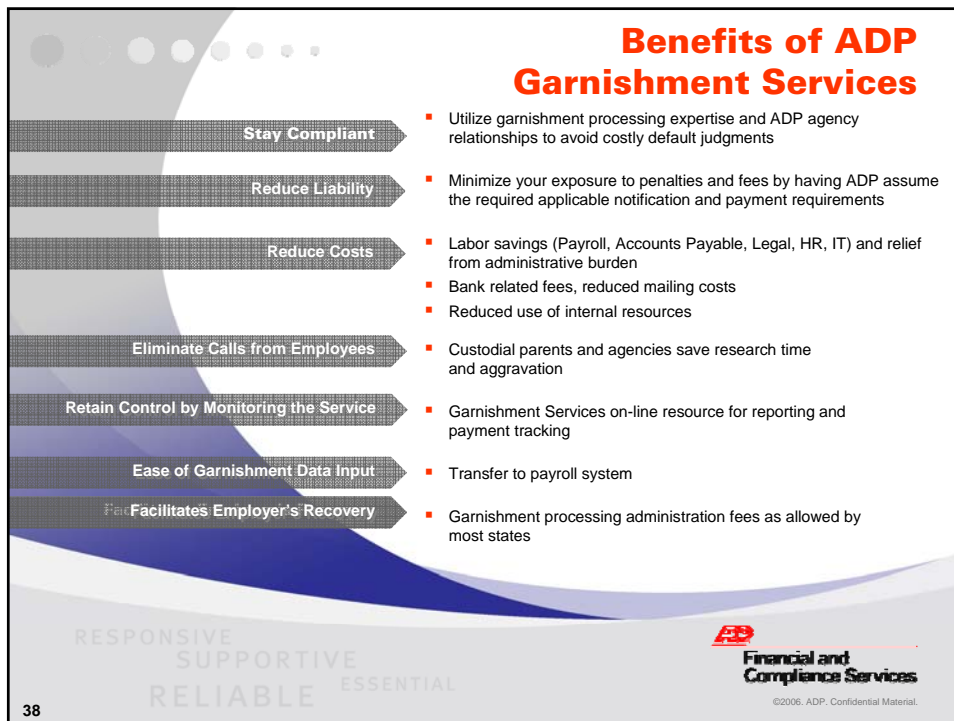1-800-CALL-ADP, ext. 228

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Call Center Spotlight

- Confidential handling of employee and custodial parent calls
- Confidential handling of agency and attorney calls concerning order and disbursement processing, and answer/interrogatories ADP filed on your behalf
- Advanced call monitoring and tracking system for proper documentation of calls
- Custom monthly reporting
- English- and Spanish-speaking representatives
- Hours of operation: 8:00am – 8:00pm Eastern time

"ADP handles complex and emotional calls with care, compassion, and compliance."

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Benefits of ADP Garnishment Services

Stay Compliant
- Utilize garnishment processing expertise and ADP agency relationships to avoid costly default judgments

Reduce Liability
- Minimize your exposure to penalties and fees by having ADP assume the required applicable notification and payment requirements

Reduce Costs
- Labor savings (Payroll, Accounts Payable, Legal, HR, IT) and relief from administrative burden
- Bank related fees, reduced mailing costs
- Reduced use of internal resources

Eliminate Calls from Employees
- Custodial parents and agencies save research time and aggravation

Retain Control by Monitoring the Service
- Garnishment Services on-line resource for reporting and payment tracking

Ease of Garnishment Data Input
- Transfer to payroll system

Facilitates Employer's Recovery
- Garnishment processing administration fees as allowed by most states

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"You cannot outsource accountability,
but you can outsource complexity."

…Anonymous

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Are ADP Garnishment Services Right For Your Organization?

- Personal discussion with ADP Corporate Sales Manager
- Garnishment Services case study with a manufacturing company available
- Garnishment Services brochure available

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Speaker Bios

Lorellee Welch, Director Product Management & Marketing, ADP Tax & Financial Services
Lorellee is responsible for the product management and marketing of ADP's financial and compliance solutions suite, which includes Payroll Tax Service, Garnishment Services, and Automated Accounts Payable Solution. She has an over ten-year history in the financial, information and data services industries covering high-tech solutions, e-commerce, and business services. Lorellee graduated from California State University Los Angeles with a BS in Finance, and received her MBA in Global Business from Pepperdine University.

Corrinne Flores, Agency Relations Manager, ADP Tax & Compliance Services
Corrinne is the Manager of AgencyRelations, the Diverse Products team, supporting ADP's Garnishment Services, WGPS, New Hire Reporting and Unemployment Compensation Services organizations. Corrinne has been with ADP for over twelve years and has spent the majority of her career within the Agency Relations department. She obtained her Bachelor's of Science in Business Management and earned her credentials as a Certified Payroll Professional (CPP). She has presented at Child Support Agency Conferences and has participated on the American Payroll Association Child Support Workgroup for the past 6 years.

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