

Factsheet – Department of Human Services Employment Income Confirmation process

This factsheet is about what to do if you receive a letter or a debt notice from the Department of Human Services (DHS) as part of its Employment Income Confirmation (EIC) process. This process used to be called the Online Compliance Intervention (OCI), and has also been called “robodebt”.

This factsheet provides general information only. You should seek specific advice about your circumstances from our member services. You can find your local service from our website (<http://www.nssrn.org.au/services/>). The information in this factsheet is based on our experience with the EIC process, which is still relatively new. There were significant changes to the process in February 2017. There is no time limit for appealing a social security debt and you can appeal even if you have already repaid it, if you realise later that there was something wrong with your debt.

What is the Employment Income Confirmation process?

The EIC process was introduced from July 2016. At the time it was called the Online Compliance Intervention.

You may get a letter under the EIC process if there is a difference between the earnings you reported to DHS when receiving a social security payment and Australian Taxation Office (ATO) records based on information provided by employers. The EIC process applies to employees who are “Pay as you go” (PAYG taxpayers). It can involve ATO data from as far back as the 2010-11 financial year and will include the current 2017-18 year.

The letter tells you the ATO information and asks you to “confirm or update the information” within 28 days using your DHS online account (through myGov) or through the DHS website using a unique confirmation code. You get a reminder letter 14 days later.

Once online, you can provide further information, including the dates you worked and details of your earnings. You may need to get this information from payslips or bank statements. You can ask for an extension of time online if you need more time.

Once you complete the process, you receive a letter telling you the outcome, including if you owe a debt.

How do I know if my letter or debt is part of the Employment Income Confirmation?

DHS has a number of processes for identifying and assessing debts which are not part of the EIC process.

The EIC process is only used for employees who are PAYG taxpayers and relates to earnings in the financial years from 2010-11 onwards.

If you receive a letter as part of the EIC process, it says “Employment income confirmation” at the top, attaches information from the ATO about your earnings and asks you to go online to “confirm or update” the information within 28 days. DHS sends these letters through registered mail delivery.

I received an Employment Income Confirmation letter, what next?

An EIC letter is not a debt letter. It simply means that there is a difference between the ATO records and the information you gave DHS about your earnings during one or more financial years. There may be an explanation for the difference, such as:

- When you reported your income to DHS you used a different name for your employer from the registered business or company name which it uses with the ATO, or
- The employer did not give the ATO the exact period you worked for them, and just reported your earnings for the financial year.

Even if the ATO information is accurate, you must go online and put in the details of your employer(s), earnings and the dates you worked to get an accurate assessment. This includes entering income for each fortnight. As you go through the online process, you are asked a series of questions including whether you worked for the employer, your dates of employment and details of your earnings, including any unusual payments such as allowances or workers' compensation payments.

What if I don't respond by the deadline?

You have 28 days from when you receive the letter to go online and provide the details of your earnings. You can also ask for more time online. You can automatically extend the deadline by 14 days through the online system twice.

If you don't respond to the letter, or you go online but don't provide all the details of your earnings, by the deadline, the system will use the ATO information to assess whether you owe a debt. It assumes that you earned the same amount each fortnight over the period recorded by the ATO.

A debt worked out using the ATO data only is likely to be inaccurate. In some cases it may be higher than the correct amount you owe. This may be because your earnings went up and down because you were casual or you only worked part of the year and the ATO has the wrong dates for when you worked.

What if I am unsure or don't have all the information?

You are likely to need payslips and possible other documentation (such as a separation certificate) to answer the online questions.

You may be unsure how to answer the questions because you received an unusual payment during that year, such as workers' compensation, income protection, a lump sum termination payment or a work allowance. You can call a specialist DHS officer to ask about this on the 1800 number in the letter you received (also displayed online).

If you need more time to collect the documentation to help you answer the question, you can request a 14 day extension of time online twice.

If you cannot get your payslips but have your bank statements, you can use your bank statements to enter your net (after tax) pay into the online system. The online system then works out your gross (before tax) pay, which is the figure DHS uses. In our experience so far, the system estimates your gross pay accurately and seems unlikely to lead to a debt that is higher than the correct amount.

The online system asks if you have payslips or bank statements. If you say you don't have payslips or bank statements, it asks you to call a DHS specialist officer. If you have a good reason why you can't get any documentation, the DHS officer can request it for you. It might be inappropriate or unsafe for you to contact your former employer, for instance, or you might be unable to afford old bank statements and don't have internet access. It may be helpful to have some evidence to show you tried to get the documentation or explain why you can't get it, as DHS will not get the documents for you without a good reason.

If you still can't get the information you need, you can also get legal advice about your circumstances from our member services. You can find your local service from our website (<http://www.nssrn.org.au/services/>).

I have a debt, but how do I know it is correct?

Once you enter all the details of your earnings, the system gives you a "Provisional Assessment Outcome". If you think it is incorrect, you can go back and check the information you gave. You have 14 days to accept the provisional assessment.

Once you accept the provisional assessment, the system calculates any debt you owe and tells you the outcome. If there is a debt, there are a number of tabs which give you more information about how the debt was calculated, such as your past payments from DHS and the earnings you previously reported.

The Commonwealth Ombudsman says that it is satisfied that the EIC system correctly assesses whether you owe a debt and its amount if you enter all the details of your earnings, including correct employment dates and all your individual pays. You will also need to discuss any unusual payments such as termination, income protection or workers' compensation, to ensure the outcome is accurate.

If you don't respond to the letter, or you go online but don't provide all the details of your earnings, by the deadline, the system will use the ATO information to assess whether you owe a debt. It assumes that you earned the same amount each fortnight over the period recorded by the ATO.

A debt worked out using the ATO data only is likely to be inaccurate. In some cases it may be higher than the correct amount you owe. This may be because your earnings went up and down because you were casual or you only worked part of the year and the ATO has the wrong dates for when you worked.

Why has a 10% "recovery fee" been added to the debt?

Under social security law, a recovery fee is a 10% penalty which is added to a debt if you failed to report all your income to DHS knowingly, recklessly or without reasonable excuse.

Currently, a 10% penalty is not added to your debt if you respond to the letter and go online to confirm or provide more information. However, during the early months of the system it automatically added a 10% recovery fee to the debt even if you went online in certain circumstances. Some people also did not receive the letter because it was sent to an old address, and had a 10% penalty added to their debt when they did not respond by the deadline.

If you think a 10% penalty was incorrectly added to your debt because you did not get the letter, you may be able to go through the online process now, or appeal against this. You can get advice about your circumstances from our member services. You can find your local service from our website (<http://www.nssrn.org.au/services/>).

What if I think the debt is incorrect?

If you have a debt which you think is wrong because DHS did not have all the relevant information, you can still provide the extra information and DHS will recalculate the debt using it. There is no limit to how many times DHS will recalculate the debt if you provide more information.

If you still think your debt is incorrect, you have a right to appeal to a DHS authorised review officer (ARO). You may also appeal against the addition of a 10% recovery fee. The ARO will check the calculations, taking into account any extra information you provide.

You can also appeal against the debt on the same grounds that apply to other DHS debts (such as waiver because of administrative error or if you have special circumstances). There is information about this in our factsheets about DHS debts and appeals (<http://www.nssrn.org.au/factsheets/>).

A debt calculated by the EIC process without all the relevant information about your earnings is likely to be inaccurate. In some cases it may be higher than the correct amount of the debt. However, a debt calculated by the system based on the ATO information may not be very different from the correct debt and it is possible for it to be lower in some cases.

This means that a reassessment or appeal may not necessarily change the amount of the debt by very much and it is possible the debt could get higher. You can get advice about your circumstances from our member services. You can find your local service from our website (<http://www.nssrn.org.au/services/>).

If you do not agree with the ARO's decision, you have a free right to appeal to the Administrative Appeals Tribunal (AAT). There is more information about this in our factsheet about appeals (<http://www.nssrn.org.au/factsheets/>).

An appeal to the AAT is slower than a reassessment or review by DHS. If the only issue is error in how the debt was calculated, the AAT may send your debt back to be worked out by DHS again, based on any new evidence you gave it. So it may be better to wait until you have all the evidence you need about your actual income and then request a reassessment or appeal. The downside of this approach is that you may have to start repaying the debt (see below).

Repaying the debt

If you agree with the debt, you can arrange to repay it.

If you no longer receive a social security payment, it is important to make a repayment arrangement and start repaying the debt by the due date, otherwise DHS may add penalty interest to the debt or take other action to recover it. You can arrange a repayment through the Money You Owe function on myGov. If you can't afford to make any repayments immediately, you can call DHS and ask for more time to start paying.

If you appeal to an authorised review officer, you can ask DHS to pause any debt repayments until your review is finished. Be careful to confirm with DHS that a pause is in place.



Feedback and complaints about Employment Income Confirmation

You can also provide feedback or make a complaint about the EIC by:

- Calling DHS' feedback and complaints line on 1800 132 468 or online at humanservices.gov.au/feedback, and
- If not satisfied with DHS' response to your complaint, contacting the Commonwealth Ombudsman at ombudsman.gov.au or on 1300 362 073.